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DEAD MONKS AND BAD DEBTS: SOME PROVISIONS OF A BUDDHIST MONASTIC INHERITANCE LAW

Debt was a major concern it seems for those brahmins who wrote or redacted both ancient and classical Indian religious and legal texts. It was a central piece of brahmanical anthropology – Patrick Olivelle, discussing what he, following Charles Malamoud, calls "The Theology of Debt" in Vedic literature, says that "The very existence, the very birth of a man creates his conditon of indebtedness," and Malamoud had already said: "In the same way as the notion of debt is already there, fully formed, in the oldest texts, so does fundamental debt affect man and define him from the moment he is born."[1] Both are of course, at least in part, alluding to the famous passage in the *Taittirīya Saṃhitā* (6.3.10.5) which says: "A Brahmin, at his very birth, is born with a triple debt – of studentship to the seers, of sacrifice to the gods, of offspring to the fathers."[2]

Brahmanical literature was not, however, concerned only with man's religious or anthropological debt – it was equally occupied with real financial debt, and often the two sorts of debt are tightly entangled. Typical of the legal concern with debt is the *Nāradasmṛti*, "the only original collection of legal maxims (*mūlasmṛti*) which is purely juridical in character."[3] The first and by far the longest of its chapters dealing with "Titles of Law" (*vyavahārapadāni*) is devoted to "nonpayment of debt" (*ṛṇādānam*). It contains 224 verses. By comparison, the second longest chapter, the chapter dealing with "Relations between Men and Women" (*strīpuṃsayoga*) covers what one might have thought was a far broader range of issues but consists of only 117 verses; and the thorny issue of "Partition of Inheritance" (*dāyābhāga*) is treated in only 49 verses. A preoccupation with legal debt and the recovery of debt is moreover by no means limited to *Nārada*, as a glance at modern works like Chatterjee's *The Law of Debt in Ancient India* will show: the topic was similarly addressed by previous *śāstrakāras* and by those who followed him; it also forms a significant part of almost all the 'digests' or *nibandhas*.[4]

Given the length to which *Nārada* pursues the topic it is probably not surprising that we find reference in his discussion – and that fairly early on (I.7) – to ascetics who die in debt. Even though we do not often think of

Indo-Iranian Journal **44:** 99–148, 2001.

Indian ascetics as having or entering into contractual obligations, *Nārada* says:

tapasvī câgnihotrī ca ṛṇavān mriyate yadi /
tapaś caivâgnihotraṃ ca sarvaṃ tad dhaninām dhanam //

which Richard Lariviere translates as;

If an ascetic or an agnihotrin dies in debt, all of the merit from his austerities and sacrifices belongs to his creditors[5]

The exact status of the *tapasvin* or "ascetic" here is of course not clear, and the reference to debts may refer to debts incurred or contracted before the individual undertook the practices of an ascetic. But that is not stated to have been the case. A little clearer perhaps is *Viṣṇu* 6.27: "*Viṣṇu* is explicit on this point: when a debtor dies or renounces [*pravrajita*] or is away in a distant land for twenty years his sons and grandsons should settle the debt;" and, as Olivelle notes, *Kātyāyana* makes a similar statement.[6] Care, however, is probably best taken not to exclude the possibility that "ascetics" and/or "renouncers" were not as socially dead as some of the prescriptive texts make out. Some of these same texts contain explicit rules governing the inheritance of a deceased renouncer's property in spite of the fact that he was not supposed to have any – Olivelle in fact says that "The civil death of the renouncer makes him incapable of owning property."[7] Some Indian *vinaya* literature would seem in fact to require that such questions be left very much open, or, at the least, problemitizes the civil status of both Buddhist monks and Indian renouncers and the relationship, or comparability, of the two.[8] "Some" here, however, is the operable term.

There has been a marked tendency even in scholarly literature, to refer to "the *Vinaya*", as if there were only one, when in fact the actual reference is only to the Pāli *Vinaya*. This is a habit which should not be encouraged for any number of good reasons, not the least of which is the fact that there are a half a dozen other *vinayas* that are extant. Moreover, the relationship of the Pāli *Vinaya* to Indian practice may not be as clear and straightforward as has been unquestionably assumed,[9] and the citation of it alone is certainly distortive as can be seen in a case that is particularly germane to our topic. Chatterjee, for example, has said with some confidence: ". . . the entanglement and anxieties of debt as well as corporate liability belonging to communistic life in a religious order rendered it necessary to debar any candidate from admission to the *saṅgha* who was a debtor (*Vinaya*, I.76)."[10] The only evidence actually cited for this global assertion is, of course, the Pāli *Vinaya*, and the latter does indeed contain a prohibition against ordaining debtors (*na bhikkhave iṇāyiko pabbājetabbo*).[11] But – as has been pointed out elsewhere – at least the Mūlasarvāstivādin *Vinaya*

has a very different provision: it requires that if a candidate for ordination has debts he must make an assurance that he will be able to pay such debts *after* his ordination.[12] Neither *Vinaya*, moreover, explicitly prohibits a monk from contracting debts once he has been ordained and, as we will shortly see, the Mūlasarvāstivādin *Vinaya* – a *Vinaya* with clear points of contact with early Northwest India[13] – would seem to indicate that its monks routinely did so.

The passages from the *Mūlasarvāstivāda-vinaya* that most concern us here, those which in part deal with monks who die in debt, occur in the *Uttaragrantha*, the section of this *Vinaya* which has received the least attention and some preliminary remarks in regard to it might therefore be useful. First of all it should be noted that as we now have it in the Tibetan translation of the *Mūlasarvāstivāda-vinaya* there are in fact two texts in this section. Both these are given the same Sanskrit title – *Vinaya-uttara-grantha* – but each has a slightly different Tibetan title: the first text has the Tibetan title *'Dul ba gzhung bla ma*; the second *'Dul ba gzhung dam pa. Bla ma* and *dam pa* can be very close in meaning, and while *bla ma* is an attested equivalent of *uttara, dam pa* more commonly translates *uttama*.[14] The first of the two texts appears to be incomplete and the relationship between the two has yet to be fully worked out. Neither appears to have been preserved in Sanskrit.

While there are then serious unanswered questions about the textual history of this section of the *Mūlasarvāstivāda-vinaya*, its importance – judged by almost any standard – is much less in doubt, and it is already clear that one of the very few published general characterizations of it is widely off the mark. A.C. Banerjee says: "The *Vinaya-uttara-grantha*, just like the Pāli *Parivāra*, is an appendix to the *Vinaya*. This work tells us nothing new; it is only an abridgement of the *Vinaya* texts."[15] Nothing, however, could be further from the truth: it is in no sense an abridgement of the *Vinaya* and most of what it contains is either found nowhere else or appears to be the basis or earlier version of what is found elsewhere in this *Vinaya*. For example, the *Śayanāsana-, Pārivāsika-*, and *Kṣudraka-vastus* of the *Mūlasarvāstivāda-vinaya* all take for granted that the date must be formally announced every day in a Mūlasarvāstivādin monastery, and that each day verses must be recited for the monastery's 'donor' or owner, but the rule requiring both is found only in the *Uttaragrantha*.[16] Or – to cite an example closer to the topic at hand here – the *Cīvaravastu* twice refers to liquidating a deceased monk's estate by sale in the midst of the assembled community, but the 'origin tale' and rule requiring this procedure are, again, found only in the *Uttaragrantha*, and the detailed rules governing the 'auction' by which the sale is handled are also unique

to it.[17] It is again already clear that this sort of pattern repeatedly occurs, but the apparent priority of texts in the *Uttaragrantha* may also be detected in another pattern as well.

There are, to be sure, instances where a version of a text found in the *Uttaragrantha* occurs elsewhere in the *Mūlasarvāstivāda-vinaya*, or a topic treated in the *Uttara* is similarly treated in some other *vastu* or section, but these are almost never exact doublets and very often there is at least some indication suggesting the priority of the version in the *Uttara*. Both *Kṣudrakavastu* and the *Uttara*, for example, have a very similar text dealing with a monk's continuing right to inherit family property even after he is ordained, but – as I have pointed out elsewhere – the version found in the *Kṣudraka* has a reference to the monk's "foster mother" which makes no sense there, and could only have been taken over from the version of the text found in the *Uttara* where it also occurs, and makes perfectly natural narrative sense.[18] Likewise, both the *Vinayavibhaṅga* and the *Uttaragrantha* have texts dealing with permanent endowments or perpetuities whose funds are to be lent out on interest. But while in the *Vibhaṅga* these loans are to be made and serviced by the monks themselves, in the *Uttara* it is explicitly said that this is to be done by a monastery's factotum (*ārāmika*) or a lay-brother (*upāsaka*), suggesting at the very least a far greater fastidiousness on the part of the *Uttara* in regard to the open engagement of monks in commercial matters, at least in this case.[19]

These sorts of patterns pointing towards the priority or importance of the *Uttaragrantha* can also be detected even beyond the boundaries of the *vinaya* proper. In recent years the Mūlasarvāstivādin affiliation of the *Avadānaśataka*, for example, has become increasingly clear, and it is even beginning to appear that the *Avadānaśataka* – like the *Divyāvadāna* – is heavily dependent on this *Vinaya*. Michael Hahn, for example, has already pointed out that the *Mūlasarvāstivāda-vinaya* has versions of both the *Śaśa* and *Dharmagaveṣin Avadānas* which are very close to those now found in the *Avadānaśataka* (nos. 37 and 38). He says in fact that "Except for a few redactional changes which became necessary because of the different frame stories, the Tibetan texts of the MSV *Vinaya* point to a wording which is absolutely identical with that of the *Avadānaśataka*." He goes on to say – quite rightly I think – that "In principle, borrowing in either direction is possible, although in this particular case it seems to be more likely that the redactors of the *Avadānaśataka* extracted the two legends from the MSV *Vinaya* and furnished it with the standardized frame they used throughout their work."[20] Professor Hahn's observations are particularly relevant here, of course, because they could just as easily be describing two other texts also in the *Avadānaśataka*. Both the *Maitrakanyaka* and the

Śrīmatī Avadānas – nos. 36 and 54 in the *Avadānaśataka* – also have very close parallels in the *Mūlasarvāstivāda-vinaya*, and in these cases too "the Tibetan texts of the MSV *Vinaya* point to a wording which is absolutely identical with that of the *Avadānaśataka*." But whereas in one of Hahn's cases the redactors of the *Avadānaśataka* appear to have borrowed from the *Bhaiṣajyavastu*, and in the other they appear to have gotten their text from the *Kṣudrakavastu*, both the *Maitrakanyaka* and the *Śrīmatī* almost certainly were taken from the *Uttaragrantha*.[21]

A final consideration concerning the importance of the *Uttaragrantha* is related to the apparent use made of it by Guṇaprabha in his remarkable *Vinayasūtra*. The sources of Guṇaprabha's individual *sūtras* can – especially with the help of Bu ston – usually be identified with a reasonable degree of certainty, and a very large number of them turn out to be based on the *Uttaragrantha*. This will be clear, perhaps, even if we limit ourselves to a single example which is particularly germane to our topic. In his sixth chapter headed *Cīvaravastu* Guṇaprabha has a series of *sūtras* dealing with what can only be called Mūlasarvāstivādin monastic inheritance law. According to the commentaries and Bu ston's equally remarkable *'Dul ba pha' i gleng 'bum chen mo*,[22] it would appear that these *sūtras* are based on and are digesting at least twenty-five separate canonical texts or passages. The sequence and distribution of these canonical passages is interesting and indicative of Guṇaprabha's working methods. Both can be clearly seen in the following table.

i.	*Uttaragrantha* – Derge Pa 85a.3–86a.2	Bu ston 290a.2–.3[23]
ii.	*Uttaragrantha* – Derge Pa 86a.2–.6	Bu ston 290a.3–.5
iii.	*Uttaragrantha* – Derge Pa 86a.6–b.4	Bu ston 290a.5–.6
iv.	*Uttaragrantha* – Derge Pa 86b.4–.7	Bu ston 290a.6–.7
v.	*Uttaragrantha* – Derge Pa 86b.7–.87a.4	Bu ston 290a.7–290b.1
	(I–v continuous)	
vi.	*Cīvaravastu* – GMs iii 2,113.14–117.4	Bu ston 290b.1–291a.1
vii.	*Cīvaravastu* – GMs iii 2,117.8–122.20	Bu ston 291a.1–292a.2
	(vi,vii, an *uddāna* intervenes, otherwise continuous)	
viii.	*Uttaragrantha* – Derge Pa 88a.1–.2	Bu ston 292a.1
ix.	*Cīvaravastu* – GMs iii 2,143.15–145.12	Bu ston 292a.1–.7
x.	*Cīvaravastu* – GMs iii 2,147.10–148.20	Bu ston 292a.7–292b.4

xi.	*Cīvaravastu* – GMs iii 2,146.7–147.9	Bu ston 292b.4–.6
xii.	*Cīvaravastu* – GMs iii 2,126.17–127.18	Bu ston 292b.6–293a.3
xiii.	*Uttaragrantha* – Derge Pa 87a.4–.6	Bu ston 293a.3–.4
xiv.	*Uttaragrantha* – Derge Pa 132b.2–.7	Bu ston 293a.4–.7
xv.	*Uttaragrantha* – Derge Pa 132b.7–133a.3	Bu ston 293a.7–293b.2
xvi.	*Uttaragrantha* – Derge Pa 133a.3–133b.1	Bu ston 293b.2–.4
xvii.	*Uttaragrantha* – Derge Pa 133b.1–.4	Bu ston 293b.4–.5
xviii.	*Uttaragrantha* – Derge Pa 133b.4–134a.1	Bu ston 293b.5–.7
	(xiv–xviii continuous)	
xix.	*Cīvaravastu* – GMs iii 2,145.13–146.6	Bu ston 293b.7–294a.2
xx.	*Cīvaravastu* – GMs iii 2,122.20–123.15	Bu ston 294a.2–.5
xxi.	*Uttaragrantha* – Derge Na 261a.1–.5	Bu ston 294a.5–.7
xxii.	*Cīvaravastu* – GMs iii 2,124.1–.10	Bu ston 294a.7–294b.2
xxiii.	*Kṣudrakavastu* – Derge Tha 252b.3–254a.1	Bu ston 294b.2–.6
xxiv.	*Uttaragrantha* – Derge Pa 130a.4–131a.3	Bu ston 294b.6–295a.1
xxv.	*Cīvaravastu* – GMs iii 2,139.6–143.14	Bu ston 295a.1–.3

Several things are fairly obvious from this table. First, bearing in mind that the *sūtras* in the *Vinayasūtra* which digest this canonical material cover only a little more than a single large page of printed Devanāgarī in Sankrityayana's edition (35 lines), it is clear, that Guṇaprabha has packed a great deal – material that covers nearly ten folios, or, twenty pages, of printed Tibetan, plus more than twenty printed pages of Devanāgarī in Dutt's edition of the *Cīvaravastu* – into a very small space. It is equally clear that Guṇaprabha does not present his material in anything like its canonical order. He starts by summarizing in sequential order material that covers two leaves of the *Uttara*, the last section of the canonical *Vinaya*; then he summarizes, again in sequential order, material that covers nine pages of the *Cīvaravastu*, which is the sixth or seventh sub-section of the first section in the canonical *Vinaya*;[24] then he jumps back to a two line text in the *Uttara*; then back again to a block of material from the *Cīvara* which he presents completely out of order; then again back to a block of material – this time again presented in sequence – from the *Uttara*; etc.[25] But while our table provides what might well turn out to be some good indications of Guṇaprabha's general working methods, perhaps the most important thing it shows for our immediate purposes is the significant place that the *Uttaragrantha* has in Guṇaprabha's understanding and presentation

of the rules governing Mūlasarvāstivādin monasticism: his presentation of Mūlasarvāstivādin inheritance law, while it makes considerable use of the *Cīvaravastu*, starts with the *Uttaragrantha*, implicitly indicating what is confirmed by the canonical text itself, that the foundational ruling for all the rest is found there. Although, again, the *Cīvaravastu* served as the basis for many of Guṇaprabha's *sūtras* and ten of the identifiable texts he used come from it, fourteen are from the *Uttaragrantha*. The latter, therefore, could hardly have been considered by him as a mere "appendix" or "abridgement" which contained nothing not found elsewhere. To judge by this example – and there are many more very like it – the *Uttaragrantha* must have been considered an integral, important, and in many instances a foundational part of the *Mūlasarvāstivāda-vinaya*.

Our table, moreover, shows at least one other important thing as well. Since almost all of the texts that we are about to discuss dealing with debt and the death of a monk are included in the list of Guṇaprabha's sources – they are numbers xiv through xvii – it is clear that, at least as Guṇaprabha saw it, they are a part of a larger 'system' of Mūlasarvāstivādin monastic inheritance law and by no means isolated or anomalous rulings that had no continuing influence. Once these rulings were enshrined in Guṇaprabha's *Vinayasūtra*, moreover, they were insured a continuing long life in it, in the bulky commentarial tradition that quickly grew up around it, and on into the Tibetan exegetical tradition.[26]

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The texts in the *Uttaragrantha* that deal with private debt and the death of a monk are typical of many other sets of texts there. They are all short and similarly structured; their narrative frame is lean and repetitive; they follow one another in a sequential order; and they deal with one issue at a time. Since these texts are little known, an edition of the Tibetan text will be given first, followed by a translation. The Tibetan texts are based on the three Kanjurs which are available to me: the Tog Palace Manuscript Kanjur (=Tog); the Derge Xylograph (=Derge); and the Peking Edition (=Peking). I reproduce the 'punctuation' that is found in Tog.

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II. (=xiv)[27]

Tog Na 190b.3–191a.4 = Derge Pa 132b.2–.7 = Peking Phe 129a.3–129b.1

sangs rgyas bcom ldan 'das mnyan du yod pa'i dze ta'i tshal mgon med zas sbyin gyi kun dga'[1] ra ba na bzhugs so /

dge slong gzhan zhig gis[2] khyim bdag cig las kar sha pa ṇa[3] zhig bskyis pa dang/

de dus kyi mtha' zhig tu ci[4] zhig gis dus 'das nas / dge slong de ji ltar dus[5] 'das pa khyim bdag des thos so / dge slong de ji ltar dus 'das pa khyim bdag des thos nas / gtsug lag khang du song ste / shes bzhin du dge slong dag la dris pa / 'phags pa 'di zhes bgyi ba'i dge slong de gang na mchis /

de dag gis smras pa / bzhin bzangs dus 'das so/

'phags pa[6] des bdag gi kar sha pa ṇa[3] zhig bskyis te 'tshal lo[7] /

bzhin bzangs de ni dur khrod du bskyal gyis der song ste dos shig /

'phags pa khyed kyis de'i lhung bzed dang chos gos bgos na bdag gis ji ltar dur khrod du song ste bda' / khyed[8] kyis stsol[9] cig ces smras pa dang / de ltar gyur pa dge slong rnams kyis bcom ldan 'das la gsol nas / bcom ldan 'das kyis bka' stsal pa / dge slong dag khyim bdag des ni legs par smras te / de'i nor las bskyis pa dge slong dag gis byin cig /

de dag gis gang nas sbyin pa mi shes nas / bcom ldan 'das kyis bka' stsal pa / de'i lhung bzed dang chos gos yod pa las byin cig /

dge slong de dag gis lhung bzed dang chos gos de dag byin pa dang / chos gos dang lhung bzed[10] de dag ma 'dod nas / bcom ldan 'das kyis bka' stsal pa / tshongs la byin cig /

dge slong dag gis de dag thams cad byin no /

bcom ldan 'das kyis bka' stsal pa / ji tsam blangs pa de tsam du byin la lhag ma bgos shig /

1) Peking: *dga'i*. 2) Tog: omits *gis*, but cf II. 3) Derge: *kār shā pa ṇa*. 4) Tog: *ji*. 5) Peking: *du*. 6) Peking: omits *pa*. 7) Derge, Peking: *to*. 8) Derge, Peking: *khyod*. 9) Peking: *sol*. 10) Derge, Peking: *lhung bzed dang chos gos*, reversing the items.

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The Buddha, the Blessed One, was staying in the Park of Anāthapiṇḍada, in the Jetavana of Śrāvastī.

A certain monk had borrowed some money from a householder, and when his time had come and he had died of something, that householder heard as how that monk had died. When that householder had heard as how that monk had died he went to the vihāra and – although he knew – asked the monks: "Noble Ones, where is that monk named so-and-so?"

"He, sir, is dead," they said.

"Noble Ones, he borrowed some of my money and I want it."

"Well, sir, since he has been carried out to the cremation grounds you will just have to go there and collect!"

"When you, Noble Ones, have already divided his bowl and robes how am I going to go and collect in the cremation grounds? You must repay me!", He said. And when the monks reported what had occurred to the Blessed One, the Blessed One said: "That householder, monks, speaks properly and the monks must repay the money that was borrowed from him!"

When the monks did not know from what he was to be repayed, the Blessed One said: "He must be repayed from the bowl and robes that deceased monk had!"

The monks gave him the bowls and robes, but when he did not want robes and bowls, the Blessed One said: "You must sell them and then repay him!"

The monks gave the householder all of the proceeds.

The Blessed One said: "As much as was taken, so much must be returned, and the rest must be divided!"

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The first thing that might be noted about this short text – the first of the series – is that while it might not always be possible to determine the exact Sanskrit vocabulary underlying its Tibetan translation, the meaning of the text on almost every important point is virtually certain. That we are dealing here with money, for example, is absolutely certain. The key term in fact is in every case but one transliterated, not translated, and was *kārṣāpaṇa*, the designation of a coin type of variable value which is also widely used in Sanskrit to refer in general to "money, gold and silver."[28] That the monk had "borrowed" *kārṣāpaṇas* from a layman is also not in doubt. Here the Tibetan is *bskyis ba*, the past tense of *skyi ba*, and Jäschke, for example, gives under *nor* – which also occurs once in our text in place of *kārṣāpaṇa* – *nor skyi ba* as meaning "to borrow money."[29] Likewise, the first meaning under *skyi ba* in the *Bod rgya tshig mdzod chen mo* is *dngul sogs g-yar ba*, "to borrow silver [or money], etc."[30] Lokesh Chandra's *Tibetan-Sanskrit Dictionary* gives *uddhāra* as the Sanskrit equivalent of *skyi ba*, and a form of *uddhāra* is twice translated by the closely related *skyin po* in a passage in the *Carmavastu* of the *Mūlasarvāstivāda-vinaya* which also occurs in the *Divyāvadāna*:[31] *skyin pa* means "a loan, a thing borrowed;" and both Edgerton and Cowell and Neil recognize the meaning "debt" for *uddhāra*, a meaning it also has in Pāli, though not commonly in Sanskrit. The Sanskrit equivalent for the one other important action in our text is, finally, much more straightforward. At the end of our text the monks are told, in effect, that they must liquidate the deceased monk's estate, that they must "sell" it. The Tibetan here is *tshongs*, an imperative form of *'tshong*, which is a widely and well attested equivalent for forms from Sanskrit *vi*$\sqrt{}$*krī*, perhaps the most common Sanskrit term for "to sell."[32] This is, moreover, as we will see, not the only place that monks are ordered by the Buddha to do this.

But apart from matters of vocabulary, it is also worth noting here that the deceased monk's action – a monk's borrowing money from laymen – passes entirely without comment: this is not the problem and no rule forbidding it is provided by our text, or any other that I know of.[33] The problem that our text addresses appears, ironically, not even to have been a particular concern of the general run of monks. Their cheeky response to the layman's assertion – which, as we will see, will be repeated – is nothing if not dismissive: they tell him in effect to buzz off. But while this might be well and good for individual monks, it was precisely this sort of thing that the 'author' of our ruling – who we can assume speaks through the Buddha's mouth – apparently wanted to stop.

Like the authors of all Buddhist texts, whether *sūtra* or *śāstra*, our author was almost certainly not an average or typical Indian Buddhist

monk. Moreover, as a *vinayadhara* or monastic lawyer he would have had specific and specialized concerns, and would have been charged, as it were, with a particular mission. Herein, of course, lay the problem. Almost everything in the *Mūlasarvāstivāda-vinaya* – and perhaps in other *vinayas* as well – suggests that its author or authors were concerned with building and maintaining an institution and therefore avoiding social criticism. This concern appears to have prompted, especially in the *Mūlasarvāstivāda-vinaya*, any number of rulings which would accomodate and bring its version of Buddhist monasticism into line with brahmanical values and concerns. A good example of this can be seen in Mūlasarvāstivādin rules governing monastic funerals.[34] Since they deal with a related issue, it should be no surprise that the texts we are dealing with here provide another example: they too appear to have been designed to shield the institution from criticism and to bring its practice into conformity with *dharmaśāstric* law or expectation. It probably did not escape our *vinayadhara's* notice that by doing so they would as well provide some assurance to any potential lender or creditor that a loan to a member of a Buddhist community would not go bad. This last may have been more important than we can realize since, in fact, the *Mūlasarvāstivāda-vinaya* itself contains repeated references, put in the mouth of tradesmen, that suggest that its author or authors knew that Buddhist monks had a reputation among such folk for not paying their bills. In the *Kṣudrakavastu*, for example, when a monk's bowl begins to leak and he takes it to a smith to be repaired, the latter tries to get rid of him, thinking to himself, the text says: "Although these monks commission work they do not pay the bill" (*de dag ni khas las byed du 'jug pa yin gyi / gla rngan ni mi ster ba*). In the *Carmavastu* a cobbler says very much the same sort of thing when a monk brings him his sandals to repair: "Buddhist monks want us to work but without wages" (*śākya'i sras kyi dge slong rnams ni rngan pa med par 'chol gyis ...*).[35] It is, of course, almost impossible to know at this distance anything certain about the relationships between Buddhist monks and Indian tradesmen. The presence of passages like these – and many others – suggests at least that they had them, and the fact that such narrative criticisms occur even in Buddhist sources may suggest that such relationships were not always good. The further fact that several of the texts in our series also deal – as we shall see – with the same relationships would seem at the very least to indicate that our *vinayadhara* thought they were in need of careful regulation.

Considerations of this kind must of course remain conjectural. What is far more certain, though, is the effect of the ruling put in place by our text, which, again, is only the first of the series. Classical 'Hindu'

law was very clear on certain aspects of the law of debt. Chatterjee, for example, says: "Gautama prescribes that those who inherit the property of a person should discharge his debt. The idea finds place in the texts of *Yājñavalkya* and *Viṣṇu*." Gautama's text is particularly elegant: *rikthabhāja ṛṇaṃ pratikuryuṇ* (xii.37).[36] Since our text explicitly indicates that in the case it is describing the monks had already "inherited" (*bgos na* – translating a past tense from $\sqrt{}$*bhaj*) the dead monk's estate (his "bowl and robes"), the householder's assertion ("you [monks] must repay me!") is not – in light of *Gautama* et al. – an individual claim or private opinion, but the invocation of brahmanical law or expectation. When the Buddha is made to declare that "that householder . . . speaks properly," he is in fact saying that he speaks in conformity with *dharmaśāstra*. And when the Buddha then immediately – and, by implication, consequently – orders that the monks must repay what was borrowed, he is in fact insisting that his monks conform to brahmanical norms.

One last observation in regard to our text concerns the good business sense of this *Vinaya's* Buddha. Although we are not told how much money the deceased monk had borrowed, the text explicitly says that when the monks liquidated his estate they gave everything to the lay creditor and the clear implication – especially in light of our next text – was that this was in excess of what had been borrowed. At this point the Buddha, unasked, intervenes and insists on a much more enlightened procedure that would be far more favorable to his monks: they must repay only as much as was borrowed – nothing here is said about interest in spite of the fact that our redactors elsewhere required monks themselves to charge interest on money that they lent, and in spite of the fact that *dharmaśāstric* texts have a great deal to say about it, some of which our monks appear to have known.[37]

We have, then, in our little text a good solution to a potentially serious problem. It averts social criticism of monastic practice; it brings Buddhist monastic practice into conformity with brahmanical norms; it – incidentally – might also serve to assure members of the Buddhist monastic community continuing access to credit by providing any potential lender something like a limited guaranty. But while it was a good solution, it was not a complete solution, and the problem remained that the guaranty was based in fact on the size of the deceased monk's estate: if the estate was equal to or in excess of what had been borrowed then the guaranty would have effect. But what if it were not? Moreover, the ruling our text provides could be interpreted to admit in principle corporate liability for the debt of its individual members, and to expose community assets or those of other monks to any action for recovery. How important these considerations

were to our *vinayadhara* may be indicated by the fact that both points of law were explicitly addressed in a separate text which immediately follows the one we having been dealing with in the *Uttaragrantha*.

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III. (=xv)
Tog Na 191a.4–191b.2 = Derge Pa 132b.7–133a.3 = Peking Phe 129b.1–.4

mnyan du yod pa na dge slong gzhan zhig gis khyim bdag cig las kar sha pa ṇa[1] zhig bskyis ba dang / de dus kyi mtha' zhig tu ji zhig[2] gis dus[3] 'das pa dang / dge slong de dag gis snga ma bzhin du lhung bzed dang chos gos btsongs nas de la byin no /

khyim bdag gis smras pa / 'phags pa des[4] bdag las[5] 'di tsam zhig 'tshal te / bdag la ni 'di las ma stsal gyis / gzhan yang stsol cig ces smras pa dang / de ltar[6] gyur pa dge slong rnams kyis / bcom ldan 'das la gsol pa dang / bcom ldan 'das kyis bka' stsal pa / de la de'i lhung bzed dang chos gos ni 'di las med do[7] zhes sgo[8] zhig / de ste yid mi ches na go bar gyis shig / go bar bsgo yang mi[9] btub na de[10] la dge 'dun gyi 'am / gang zag gzhan gyi las ni ma[11] sbyin cig / rigs kyi gzu bo rnams kyis go bar bsgo la thong zhig /

1) Derge: *kār shā pa ṇa*. 2) Derge, Peking: *ci zhig*. 3) Derge, Peking: omit *dus*. 4) Derge, Peking: *der*. 5) Tog: *la*. 6) Derge, Peking: *de lta bur*. 7) Peking: probably *mad do*, but could also be read as *mang ngo*. 8) Peking: *bsgo*. 9) Peking: *ma*. 10) Peking: *da*. 11) Peking: *na me*.

*

In Śrāvastī a certain monk borrowed some money from a householder, and when his time had come he died of something. Then after the monks had sold his bowl and robes as before, they repaid the householder.

The householder said: "Noble Ones, that monk took this much from me, but since you have not returned it to me from this, you must return still more!" And the monks reported to the Blessed One what had occurred, and the Blessed One said: "You must inform him saying: 'In regard to his bowl and robes there is nothing beyond this.' If he does not believe that, you must make a clear account. If, even when a clear account is declared, that is not acceptable, you must not repay him from what belongs to the community or another individual monk! Mediators of good family must declare a clear account and settle it!"

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The language here is a little crabbed and the precise sense of some of the Tibetan vocabulary is not as clear as one might want, nor are the Sanskrit equivalents always sure. Still, the general purport of the text cannot be in doubt. That, for example, this text is a pendant to the one that precedes it is certain and even formally expressed by the shorthand reference to the sale being "as before." Moreover the new text certainly and explicitly addresses the two questions that the preceding text left open or in fact raised: what happens when the liquidation of the estate of the

monk in debt realizes less than what is owed; and is the community or are other individual monks liable for any balance that remains after the sale of the deceased monk's estate. At least a part of the answer to the first question is also clear. When the lender declares that what was realized from the estate sale is insufficient the monks must give an 'accounting' – this seems to be the best rendering of *go ba* here in such a context, but it is not certain. *Go ba* more commonly means "cause to understand," "explain," or even "convince." If this does not work, then, it seems, the case is put to independent outsiders, neither monks nor ordinary householders, but "mediators of good family." Unfortunately it is not easy to determine a precise sanskrit equivalent for *rigs kyi gzu bo*. *Rigs* almost certainly translates *kula-*, but all I can say about *gzu bo* is that *Bod rgya tshig mdzod chen mo* defines it as *rtsod gleng bar 'dum byed mkhan*, "one who is skilled in reconciling disputes." There is no indication in the text, at least, that these individuals are state officiers or officiers of any court. And there is also no indication of what I have translated as "settle" really means or actually involves. It seems certain from the answer to the second question that whatever these "mediators" might do they could only rule against the monastic community if it had dissembled. They could not require – at least could not expect – the community to repay more than was realized from the sale of the estate because all other potential assets were, by the rule of the Buddha, protected. The function of the mediators would seem, then, to have been limited to providing an independent accounting of the dead monk's estate and of what was realized from its sale. Beyond this the creditor would seem to have had no recourse.

The second and more fundamental question is almost entirely free of such lexical and procedural uncertainties, and the answer is – on one level – emphatic and unequivocal: the monastic community or corporation is not in itself liable for a debt left by one of its individual members. The individual monks to whom the estate falls and among whom it is divided – and there are elaborate rules defining who these are – are responsible, though not individually liable, for discharging such debt up to the amount realized by the liquidation of the estate, but no further. This limitation is articulated by our text in a language that uses key elements of a vocabulary that are as old, it seems, as anything in the *Vinaya*. Most scholars would maintain that the *Prātimokṣa* is the 'original' or oldest part of all the *Vinayas*.[38] If this is true then the distinction between corporate property and individual property was a part of Buddhist monasticisms from the beginning, since the terms *sāṃghika* and *paudgalika*, and their attendant conceptions, appear to be found either separately or together in all known versions of the *Prātimokṣa*.[39] These are also the same terms that occur

in the fundamental ruling delivered by our text – *dge 'dun gyi* and *gang zag gi* are solidly attested equivalents for, and can only be translations of, *sāṃghika* and *paudgalika*. By having, then, the Buddha himself use them when he said that, in effect, under no circumstance must "what belongs to the community" (*sāṃghika*) or what belongs to another individual monk (*paudgalika*) be used to discharge even a portion of an individual's debt, our redactor or author not only used unambiguous and familiar conceptions, he also definitively denied any corporate liability for such debt. "What belongs to the community," or *sāṃghika*, can only be used for what are community purposes. Since *sāṃghika* cannot be used here the affair, by definition, is not community business. Our redactor makes the same move, by the same means, in regard to the individual assets of the deceased's fellow monks – they too cannot be used for such a purpose.

It is, of course, in all of this hard to avoid the conclusion that the single most important goal for our author was to protect community assets and the individual assets of other monks from any potential action on the part of the creditor. The fact that at the same time he was apparently attempting to honor the well established *dharmaśāstric* principle that "the right to inheritance should be followed by the obligation to discharge the debt"[40] made his task both difficult and delicate. It was difficult in part because other texts in our *Vinaya* make it very clear that the *vinayadharas* had no desire at all to give up the right to inheritance, although this was one obvious way that the obligation for debt could have been avoided. On the contrary our *Vinaya* has at least one elaborate text that was also taken up by Guṇaprabha (=vii) whose main purport was in fact to establish the rights of a deceased monk's fellow-monks (*sabrahmacārin*) to his estate, and this text is explicitly cited in another of Guṇaprabha's sources (=xxv) as a precedent binding on the state. There was, moreover, also *dharmaśāstric* precedent for "spiritual brothers" (*dharmabhrātṛ*) inheriting the estate of a co-religionist – Olivelle cites passages from both *Yājñavalkya* and even *Kauṭilya* to that effect.[41] But here we butt up against something of the same problem we started with: although *dharmaśāstra* provides for a renouncer's "spiritual brothers" to inherit his goods, it says nothing – to my knowledge – about whether debts incurred after he renounced followed that property. This silence has been *assumed* to indicate that a renouncer did not – indeed could not – incur such debts. But while this could be the case, it is by no means certain; and if it is the case this could be another of the ways in which Indian renouncers differed from Buddhist monks.[42] A more obvious and effective difference, however, is the fact that Indian renouncers were not, in so far as it is presently known, members of a corporation that had its own assets (*sāṃghika*) which could be at risk. The

presence of the latter in the Buddhist case added on yet another layer of complexity which Buddhist authors had to address.

But our *vinayadhara's* task was not just difficult; it was – as already noted – delicate as well, and at least from a brahmanical point of view it left the deceased debtor monk's fate hanging in the balance. Two points in brahmanical sources could here intersect to devastating effect. Chatterjee, for example, has observed that "According to Hindu concept a debtor may be released from the charge of indebtedness only through payment of debt"[43] – which occurs, of course, in the Buddhist case only when the deceased monk's assets are equal to or more than his debt. But it was also clear that "In the concept of Hindu *śāstrakāras*, repayment of a debt is not merely a legal obligation. Non-payment of debt is treated as a sin, the consequences of which follow the debtor into the next world;" and already in *Nārada* those consequences involved falling into hell (*naraka*). The idea that a debtor ends up in hell even found its way into inscriptions.[44] In light of such notions the rule in our text which, in effect, makes it all but impossible for the deceased monk's debt to be discharged when the liquidation of his estate realizes less than what is owed also, in effect, condemns him to hell – notice that according to our text neither community assets nor those of other individual monks should be used for this purpose, and there appear to have been no other means available. That our *vinayadhara* was willing to let such a condemnation stand to avoid exposing other assets to a creditor's action is eloquent testimony to how important the latter was in principle, especially since he actually allows the use of some of these other assets in a related circumstance.

The *Mūlasarvāstivāda-vinaya* repeatedly acknowledges that there were wide discrepancies in the personal wealth of individual monks and even makes a number of provisions specifically designed to deal with them. One of these is of particular interest here. The *Cīvaravastu* contains a text – also found digested in some detail in Guṇaprabha – that presents a case in which a monk who is said to be *alpajñāta* is sick and about to die.[45] *Alpajñāta* literally means "little known," but is consistently used in our *Vinaya* – as here – to designate monks who are very poor. In the present case, for example, immediately after the text describes the monk as *alpajñāta* it says *tasya bhaiṣajyaṃ nāsti*, "He had (or owned) no medicine" (in the *Vinayavibhaṅga*, to cite another example, a monk so designated is described as "wanting even in regard to the three robes"; etc.[46]) This poor monk realizes that he is about to die and says to the attendant monk: *mama nāsti kiṃcit . māṃ uddiśya pūjāṃ kuruṣveti*, "There is nothing else for me – you must perform an act of *pūjā* in my name!" The attendant says he will, but then ignores him, and the monk

dies and is reborn in the hells (*apāyeṣu*). The Buddha then says that if his fellow-monks had performed an act of worship to the three jewels the poor monk's mind would have been made devout and this would not have happened – those who die with a devout mind do not go to hell (*yadi tasya sabrahmacāribhiḥ ratnatrayapūjā kṛtābhaviṣyat cittam asyābhiprasannam abhaviṣyat*). But the point of greatest interest here is that the Buddha himself is then made to instruct the monks that both to provide medicine for a poor monk (i.e. a monk who does not own his own), and to fund what are in effect death rituals performed on his behalf to insure that he is not reborn in hell, they should first solicit a donor (*dānapatī*). But if that does not work then they should not only use corporate assets (*sāṃghika*), but, if necessary, even what belongs to the Buddha's permanent endowment (*buddhākṣayanīvisantaka*), or what can be realized after "selling" (*vikrīya*) the accoutrements belonging to the *Tathāgata-caitya* or the Perfume Chamber (*gandhakuṭī*). How very extraordinary these provisions are is, however, immediately underlined when the text adds that should the monk recover he must make every effort to repay what had been used on his behalf.

The contrast between this ruling in the *Cīvaravastu* and the ruling in our text from the *Uttaragrantha* is, then, both striking and instructive. The former explicitly allows – in fact orders – that corporate funds (*sāṃghika*) be used, if a donor cannot be found, to provide medicines for a dying indigent monk and, more significantly here, to fund ritual activity which would insure that he would not be reborn in the hells. Even assets earmarked for the Buddha himself and property belonging to him may be so used, though the ruling does not extend to the individual or personal assets of other monks. Yet in the *Uttaragrantha* the use of *sāṃghika* to pay off the debt of a deceased monk, and thereby also insure that he would not be reborn in hell, is just as explicitly forbidden. The only difference between the two undertakings, it seems, is that one provides an act of charity, and the other establishes a legal precedent, if not principle, and while our *vinayadhara* was more than willing, both here and elsewhere, to do the first, he emphatically refused – even at the cost of a fellow-monk's 'soul' – to do the second. For this Buddhist monk law had precedence over charity, and property was more important than a fellow-monk's fate. This was a monk, moreover, who quite literally made the rules.

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What we have seen so far is, it seems, a Buddhist monastic lawyer trying to shelter community or corporate assets from any action on the part of potential creditors to recover debts incurred by individual monks.

The determining element here, however, is the word "individual," because our *vinayadhara* also provided a ruling which explicitly admitted corporate liability for *corporate* debts, this time carefully sheltering individual assets – he was nothing if not good at his job. To see this additional ruling, however, we must go outside the sequential series of texts from the *Uttaragrantha* that we started with, and will return to, but we need not go outside the *Uttaragrantha*.

The new ruling that establishes corporate liability for corporate debt also occurs in the *Uttara*, but some ninety folios beyond our series; and although it too is treated by Guṇaprabha he treats it under a separate heading. He in fact treats it much earlier in a section devoted to commercial activities that can be legitimately engaged in by monks for the purposes and benefits of the community, which only emphasizes further the fact that the rulings we have so far seen are strictly limited to actions undertaken by individual monks for their individual purposes.[47] In spite of this crucial difference the narrative involved will at least be familiar.

VII. (=)
Tog Na 283b.6–284a.5 = Derge Pa 196a.7–196b.4 = Peking Phe 189b.5–190a.1

gleng gzhi ni mnyan du yod pa na ste / zhal ta byed pa'i dge slong zhig gis / dge 'dun gyi phyir[1] khyim pa zhig las[2] nor zhig bskyis ba dang / de dus[3] 'das so '

de dus[3] 'das so zhes thos nas / des[4] gtsug lag khang du 'ongs nas dris pa / dge slong ming 'di zhes bgyi ba zhig ga[5] re zhes smras pa dang / dge slong dag gis smras pa / de dus las 'das so /

des smras pa / 'phags pa bdag gi nor zhig[6] des[7] bskyis so /

dge slong dag gis smras pa / song la de nyid la dos[8] shig /

des dge 'dun gyi phyir khyer gyi / pha ma dang bdag gi phyir ma lags kyis / khyed[9] kyis stsol cig[10] /

de ltar gyur pa dge slong dag gis / bcom ldan 'das la gsol pa dang / bcom ldan 'das kyis bka' stsal pa / de ste dge 'dun gyi phyir des khyer bar shes na[11] / dge 'dun gyis skyin pa byin cig / dge slong rnams ngas las gsar du byed pa'i mtshungs[12] pa'i dge slong gi[13] chos bca' 'o[14] / las gsar du byed pa'i dge slong gis bskyis ba[15] dag / rgan zhing rgan pa dag la dris la long zhig / las gsar du byed pa rnams[16] kyis mtshungs par spyad pa'i chos bcas pa bzhin du ma byas na 'das pa dang bcas par 'gyur ro /

1) Peking: *dga dun gya phy(i)r*. 2) Derge, Peking: *la*. 3) Derge, Peking: add *las*; Tog makes the same addition once below. 4) Tog: *de*. 5) Peking: *gi*. 6) Peking: *zhag*. 7) Tog: omits *des*. 8) Peking: *dris*. 9) Peking: *khyod*. 10) Peking: *shig*. 11) Peking: *nas*. 12) Tog, Derge: *tshungs*, but cf. below. 13) Peking: *gis*. 14) Derge, Peking: *bca'o*. 15) Derge, Peking: *bskyi ba*. 16) Tog: *..byed pa'i rnams*.

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The setting was in Śrāvastī. A monk who was the Service Manager borrowed some money from a layman for the sake of the community and he died.

When that layman heard that he had died, after he had gone to the vihāra he asked, saying "Where is the monk named so-and-so?," and the monks said: "He has died."

The layman said: "He, Noble Ones, borrowed some of my money."

The monks said: "Well go and collect it from him!"

"But since he took it for the sake of the community, and not for the sake of his parents or himself, you must repay it!"

The monks reported to the Blessed One what had occurred, and the Blessed One said: "If it is known that he took it for the sake of the community the community must repay the loan! I, monks, will designate the rule for a monk who is like the Monk in Charge of Construction: the Monk in Charge of Construction will borrow. And he must ask all seniors and then obtain a loan! If the Monk in Charge of Construction does not act in accordance with the designated rule of customary behavior he comes to be guilty of an offence."

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Although the narrative frame here is unremarkably familiar the specific and defining details are completely different. In our previous cases the tale was told and the ruling governed generic, individual monks – "a certain monk", "you monks must repay, etc." – but here we are not talking about just monks, we are dealing with monastic officiers, and this little text bristles with official titles. "Service Manager" occurs once; "Seniors" actually occurs twice; "Monk in Charge of Construction" occurs three times; all of these in a very short space. We have clearly moved from the individual to the institutional, from the rank and file to the official functionary.

On one level at least none of these titles present serious difficulty – the underlying Sanskrit for all is reasonably sure. *Zhal ta byed pa* is a well-attested equivalent of *vaiyāpṛtyakara or vaiyāvṛtyakara*, even if the exact range of functions and status of this particular monastic officier are not clear.[48] *Rgan pa*, while it can occasionally translate *sthavira*, more commonly translates *vṛddha*, "Senior", as in *vṛddhānta*, "the Seniors' end of the assembly."[49] And *las gsar du byed pa* can only be a variant – in fact a better – rendering of *navakarmika*, which is more commonly rendered by *lag gi bla*, and is probably the earliest monastic office to be mentioned in inscriptions.[50] Our cast of characters here then are almost all monks having official and recognized capacities, and the use of their titles only emphasizes that they are not acting as individuals.

Our redactor does not, however, rely only on the heavy use of titles to indicate that the undertaking here at issue was not a private transaction: he not only has the layman explicity declare that it was not, he three times – again in a very short space – explicitly signals that we have to do with an action undertaken "for the sake of the community" (*dge 'dun gyi phyir*).

The 'narrator' says this at the very beginning; the layman says it to the monks; and the Buddha himself says it. But perhaps more interesting is the layman's phrasing when he explicitly denies that the loan undertaken by "the monk named so-and-so" was a private transaction, in part at least because he by implication also thereby more clearly indicates the nature of the loans in both texts II and III. The layman says that "the monk who was the Service Manager" did not take out the loan "for the sake of his parents or himself," and this, by extension, must be the definition of a private loan, and must be exactly what the monks in our two previous cases had done. That a private monastic loan was one in which an individual monk borrowed money for his own sake and purposes is perhaps by now not surprising, but that a monk would borrow money for the sake of his parents might still be, even though there are very good reasons that it should not: our *Vinaya* has a detailed set of rulings establishing a monk's obligation to financially support his parents and outlining how this is to be done;[51] and even the Pāli *Vinaya* has the Buddha himself authorizing such support;[52] monastic tales in the Pāli *Jātaka* also repeatedly refer to this practice and repeatedly present monks who are called *mātiposakas*, "[Mönch, der] seine Mutter unterstützt," for example, in a very positive light.[53] The fact that all of this – and much more – has been largely overlooked should probably be far more surprising than the fact that, given this obligation, individual monks might on occasion have had recourse to loans to fulfill it. That they did so seems to be taken very much for granted by our text.

A final indication that we are dealing with an action undertaken by a monastic officier – if that indeed be needed – is that our text ends with what it calls 'a designated rule of customary behavior.' Again, that *mtsungs par spyad pa'i chos* represents another translation of *āsamudācārika dharma* cannot be in doubt. In fact there are dozens of texts from almost every part of the *Mūlasarvāstivāda-vinaya* in which we find the same expression, or some slight variant, as occurs here in the *Uttaragrantha* when the Buddha says "I, monks, will designate the rule for a monk who . . . " In the *Poṣadhavastu* it occurs in regard to the Monk in Charge of Religious Exertion: *prāhāṇikasyāhaṃ bhikṣavo bhikṣor āsamudācārikāṃ dharmāṃ prajñapayiṣyāmi*, "Mönche, ich lege die Verhaltensregeln für einen meditierenden Mönch fest;" in the *Śayanāsanavastu* in regard both to the Monk in Charge of the (Monastery's) dogs (*kukkurapoṣaka*) and the Monk Who Gives the Explanations (*uddeśadāyaka*).[54] In all such cases – and again they are very numerous – such "rules" are promulgated not for all monks, but always for specific and limited categories of monks or monks who find themselves with a particular, often temporary, formal ecclesiatical status.

All of these considerations, then, both condition and are condensed in what is probably the single most significant difference between our first two texts (II and III) which deal with private loans taken out by individual monks for their own purposes, and our third text (VII) which deals with a corporate loan taken out by a monastic officier for the sake of the community. In the first the Buddha rules that *..bskyis pa dge slong dag gis byin cig*, "The monks must repay what was borrowed!" But in the last the wording, although only slightly changed, is still very significantly different. There the Buddha says: *dge 'dun gyis skyin pa byin cig*, "The community must repay the loan!" In the first the responsibility falls directly on the monks almost certainly because, as we have seen, they divide or inherit the deceased's estate, and debt follows property. The *saṅgha* has no part in either and is mentioned only to exclude its assets from any involvement. But in the last it is the monks who have no part and are not mentioned, nor, significantly, is there any mention here of the deceased monastic officier's estate or its partition. In the last case the monk's estate does not enter in because the true borrower in this case is the *saṅgha* and, although it has assets, it has no estate because it cannot die. There are perhaps few passages in which the corporate nature of the Buddhist *saṅgha* is so clear, nor can there be any real doubt that the net effect, if not the actual intention, of these rulings was to put into place what came much later to be a fundamental principle of Western corporate law, the principle according to which the corporation was not liable for debt incurred by its members, nor were its members responsible for the debts of the corporation – all of this as the word of the Buddha.

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To this point we are building towards something like a system of the Mūlasarvāstivādin laws of debt, but it is important to keep in mind that this emerging system is to some degree of our own making. By placing the text on corporate liability for corporate debt (VII) where we have we have had to go outside the sequential series of texts from the *Uttaragrantha* that we started with, and we have had to treat together provisions that Guṇaprabha had placed under different headings. The divergence here from both the order of the *Uttara* and from Guṇaprabha is largely a result of the fact that at least the latter implicitly considered private debt as a matter of inheritance, but corporate debt as a species of commercial transaction. But it also results from an inclination to keep the categories 'private' and 'corporate' separate, and this may have been the stronger concern, since in returning to the sequential *Uttara* series we will immediately see that it too moves next to issues of private debt that arise from commercial transactions. This

move, in turn, brings into focus a question so far begged. In neither II and III, nor VII for that matter, is the professional status of the lender clear. In both II and III he is described only as a *khyim bdag*, the standard translation for *gṛhapati*; in VII he is described even more generically as a *khyim pa*, an almost equally standard rendering of Sanskrit *gṛhin*. In none of these cases is there any indication that the lender was a professional money-lender, so while that is by no means impossible, there are also no means to actually know.[55] That the remaining cases in the *Uttaragrantha* deal with professionals is, by contrast, not in doubt.

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IV. (=xvi)
Tog Na 191b.2–192a.2 = Derge Pa 133a.3–133b.1 = Peking Phe 129b.4–130a.2

gleng gzhi ni mnyan du yod pa na / dge slong zhig gis gos 'tshong ba las ras shig rin ma byin par blangs pa las / dge slong de dus 'das nas / dge slong de dus 'das so zhes gos kyi bdag po des thos nas / de gtsug lag khang du 'ongs te shes bzhin du / dge slong rnams la[1] 'phags pa dge slong ming 'di zhes bgyi ba 'di ga la mchis zhes[2] dris pa dang / de dag gis smras pa / bzhin bzangs dus 'das so /

'phags pa des bdag las ras shig[3] rin sbyin par byas te khyer ro/

bzhin bzangs de dur khrod du bskyal gyis der song la dos shig /

'phags pa de'i chos gos dang lhung bzed ni khyed rnams kyis bgos na bdag ci'i phyir dur khrod du song ste bda' / khyed rnams[4] kyis byin cig /

de ltar gyur pa dge slong rnams kyis bcom ldan 'das la gsol nas / bcom ldan 'das kyis bka' stsal pa / dge slong rnams gos 'tshong ba 'di smra ba ni bden gyis de ni byin cig /

dge slong rnams kyis de'i ras nyid byin[5] pa dang / des 'phags pa rnams bdag la des rin thang 'di tsam du 'tshal to zhes smra[6] pa dang/ bcom ldan 'das kyis de nyid tshongs la byin cig[7] ces bka' stsal pa dang / dge slong rnams kyis de btsong bar brtsams pa dang / snga ma'i rin thang du ma lon nas bcom ldan 'das kyis[8] bka' stsal pa / lhag ma ni chos gos dang lhung bzed rnams tshongs la byin cig /

1) Peking: omits *la*. 2) Peking: *shes*. 3) Peking: adds *ni*, but the spacing suggest a correction here and both the required sense and the previous *ras shig rin ma byin par* would seem to indicate that a *ma* here has dropped out in all three witnesses. 4) Peking: omits *rnams*. 5) Peking: *sbyin*. 6) Derge, Peking: *smras*. 7) Tog: omits *cig*. 8) Peking: *kyas*.

*

The setting was in Śrāvastī. A monk took some cotton cloth from a cloth merchant without having paid for it, and when that monk died, and when the owner of the cloth heard that that monk had died, he went to the vihāra and, although he already knew, he asked the monks, saying "Noble Ones, where is the monk named so-and-so?" And they said: "He, Sir, is dead."

"Noble Ones, he took away some cloth from me without paying for it."[56]

"Well, Sir, since he has been carried out to the cremation grounds you will just have to go there and collect!"

"Noble Ones, when you have already divided his robes and bowl why should I go to the cremation grounds and collect? You must pay me!"

When the monks reported to the Blessed One what had occurred, the Blessed One said: "Since that said by this cloth merchant is true, you, monks, must repay him!"

The monks gave him his same cotton cloth, but he said: "He was to give me a price of so much," and the Blessed One said: "You must sell that same cloth and repay him!" The monks then proceeded to sell it, but when they did not get its former price the Blessed One said: "In regard to the balance, you must sell his robes and bowl and repay him!"

*

Even if it had not been signalled by its number it would have been immediately obvious from its content that with IV we have returned to the sequence of texts that we started with. We have returned to the undertakings of an individual, generic monk – he is not a monastic officier – who has acted for his own purposes. The text again explicitly refers to the dead monk's estate having already been "divided" by the monks, and once again the Buddha's ruling aligns monastic practice with the principle that 'debt follows property' – there is no reference to the community and the liability, as before in II and III, falls not on it, but on the individual monks who participated in the division. What our text adds directly to the provisions already established is simply an extension of their referent: the established provisions apply now not just to borrowed money, but to unpaid bills as well. This text – unlike II and III – also explicitly indicates that it is dealing with interactions between monks and professional merchants: the creditor here is not "a householder" or a "layman," but a cloth-merchant. And our present text, although it does not use a word that would correspond to "credit," is quite certainly describing what we would describe as 'a monk buying goods on credit.' So now we have Buddhist monks *both* buying *and* selling, and this calls for a short excursus since both have been taken to constitute an infraction of monastic rule.

All the *Prātimokṣa*s that I know appear to have a rule against buying and selling and, when we are lucky enough to have the ruling in an Indian language, the basic wording in all of them is very close:

Sarvāstivāda: *yaṇ punar bhikṣur nānāprakāraṃ krayavikrayaṃ samāpadyeta niṇsargikā pātayantikā*

Mūlasarvāstivāda: *yaṇ punar bhikṣur nānāprakāraṃ samāpadyeta naisargikā pāyantikā*

Lokottaravāda: *yo puna bhikṣur anekavidhaṃ krayavikrayavyavahāraṃ samāpadyeya saṃyyathīdaṃ imaṃ kriṇa ito kriṇa ettakam ettake[na krī]ṇāhīti vā vadeya nissargikapācattikaṃ.*

Theravāda: *yo pana bhikkhu nānappakārakaṃ kayavikkayaṃ samāpajjeyya nissaggiyaṃ pācittiyaṃ*[57]

These versions are cited here merely to show that what has already been said about the Mūlasarvāstivādin version very likely applies to all: “It does not refer to unqualified ‘buying and selling’; nor does it refer – which it could easily have – to ‘all’ (*sarva*) ‘buying and selling’. It refers to *nānā-prakāraṃ* [in the Lokottaravāda case cited here: *anekavidhaṃ*] *kraya-vikrayaṃ* which, of course, could mean ‘buying and selling of various sorts’ or ‘buying and selling of many sorts’ [the same possibilities also hold for the Lokottaravāda]. Neither interpretation precludes ‘all,’ but neither requires it either. Mūlasarvāstivādin exegesis, moreover, clearly did not take it to have absolute application.”[58] It will, of course, be important to determine if the last sentence here applies as well to the other monastic orders, or to what degree it might, and this in those cases where we must rely especially on Chinese translations may prove difficult. Already, and even on the level of the canonical rule alone, the difficulty is apparent. The Tibetan translation of the Mūlasarvāstivādin rule, for example, seems to be strictly literal: *yang dge slong gang nyo tshong rnam pa sna tshogs byed na spang ba'i ltung byed do*.[59] But Kumārajīva's translation of the Sarvāstivādin rule does not. Huber renders it into French: “Si un bhikṣu fait des achats et des ventes de toute sorte, il y a, etc,”[60] and “de toute sorte” is not an accurate translation of *nānāprakāra* or *anekavidha*, but says precisely what the Sanskrit and Pāli do not, although modern interpreters too have made the same move Kumārajīva seems to have made. Wijayaratna, for example, in referring to the Pāli rule cited above says that it “interdit *toute sorte* de trocs,” even when Horner had already translated the same rule as “Whatever monk should engage in *various kinds* of bartering there is an offence . . . ” To make matters even more complicated Rhys Davids and Oldenberg render the rule – again the same – “Whatsoever Bhikkhu shall engage in *any one of the various kinds* of buying and selling,” etc.[61] The fact that the same rule and the same wording can be understood in three different ways may not, however, constitute a defect, but rather a considerable advantage, and may indicate an admirable flexibility intentionally built into the *Prātimokṣa* by its original drafters, an intentional ambiguity that various (*nānāprakāra*), not ‘all’ (*sarva*), authors – both ancient and modern – have tried to override. This sort of intentional ambiguity has, as has been noted elsewhere, good parallels in the history of monastic statutes in Medieval Europe.[62] And – more importantly it seems – in Indian *dharmaśāstra*. In his study of the law of debt in ancient India already referred to several times, Chatterjee, for example, says things like “And sometimes (let us presume) intentionally the laws were couched in vague language (e.g. *Manu*, viii.153; *Bṛhaspati*, x.36; x.42),” or “The

words are sometimes technical and precise, at times vague and ambiguous. In many cases, we fear, the ambiguity was deliberate."[63]

While how all of these considerations might be sorted out remains to be seen, it seems fairly certain even at this stage that in regard to monks "buying and selling" the *Mūlasarvāstivāda-vinaya* is much more straightforward, and much less inclined to disguise these transactions, than the *Theravāda-vinaya*. That the latter, for example, as we have it, did not understand its own ruling as a prohibition against monks engaging in – or at least initiating – both types of transactions would seem to follow from the 'casuistic' already attached to it which says: *anāpatti agghaṃ pucchati kappiyakārakassa ācikkhati idaṃ amhākaṃ atthi amhākañ ca iminā ca iminā ca attho 'ti bhaṇati*, "There is no offence if he [the monk] asks the value, points it out to one who makes it legally allowable [i.e. a layman in the service of the monk], saying: 'This is ours, and we want this and that.' "[64] There is, in other words, no infraction of the Theravādin rule if the individual monk uses a designated individual – and thereby a legal fiction – to buy or sell what he wants. The *Mūlasarvāstivāda-vinaya*, of course, also knows of such legal fictions, but the *kappiyakāraka* and other surrogates like him are far less common in it, and even when they do appear their use is rarely mandatory. Even a couple of examples might be enough to give some idea of the different flavor of these two *vinayas*.

The *Uttaragrantha* itself contains a particularly good example of the Mūlasarvāstivādin recommendation of, but lack of insistence on, the use of a surrogate, and this example comes immediately after the sequential series of texts we have labelled here II–V. It says:

> When the Blessed One had said "a monk must not himself buy" (*dge slong rang gis nyo bar ma byed cig*), and the monks did not know how buying should be done, the Blessed One said: "a lay brother (*dge bsnyen pa = upāsaka*) who lives in the *vihāra* must be entrusted with it! If there is no lay brother living in the *vihāra* or one who is trustworthy (*dge bsnyen dad pa*), and a monk certainly wants to buy, he must state two or three times terms that have been determined, and he must not increase them by way of a *kārṣāpaṇa*, etc. Whether monks want to buy or do not want to buy, if they increase the terms by way of a *kārṣāpaṇa*, etc, or state their terms more than two or three times, they come to be guilty of an offence."[65]

Here, then, it is good for a Mūlasarvāstivādin monk to use a surrogate to make purchases, if there is one, but the bulk of the rule appears to assume that there may well not be and that the monk himself will be doing so – most of the rule is in fact devoted to governing his behavior when he does. It is also fairly certain both from the narrative frame, which is not cited here, and the content of the rule, that the problem for the Mūlasarvastivādin *vinayadharas* was not monks buying and selling, but monks haggling, and haggling must have been a common element of the early Indian economy.

In fact the 'casuistic' in the Mūlasarvāstivādin *Vibhaṅga* attached to the rule on buying and selling explicitly says that there is no offence in a monk buying or selling if he is not seeking a profit (*rnyed pa mi 'dod pa*),[66] and our *Uttaragrantha* text actually ends by allowing even haggling if it is for the sake of the Buddha, the *Dharma*, and the *Saṅgha* (*sangs rgyas dang / chos dang / dge 'dun gyi phyir rin thang bskyed kang nyes med do /*).

A second example concerning the Mūlasarvāstivādin attitude toward the use of surrogates – this one from the *Vibhaṅga* – is particularly interesting because it explicitly articulates the *dharmaśāstric* notion of *āpad*, "distress" or "extremity": "A situation when normal rules do not apply."[67] The text in question occurs as one of the cases treated under the rule against monks 'touching' gold and silver – another problematic rule – but also involves the rule against digging the ground. It says that in times of danger monks fled *vihāras* that were situated in "border regions" (*mtha' 'khob*), but when they did thieves looted the unoccupied *vihāras*. When that happened

> The Blessed One said: "The treasure and gold (*dbyig dang gser*) belonging to the community or the *stūpa* must be hidden, then you should go!"
>
> Although the Blessed One had said "It must be hidden," the monks did not know by whom it should be hidden.
>
> The Blessed One said: "It should be hidden by an attendant of the monastery (*kun dga' ra ba pa* = *āramika*) or a lay brother (*dge bsnyen* = *upāsaka*)."
>
> But then those who hide it, they themselves stole it.
>
> The Blessed One said: "It must be hidden by a trustworthy lay brother (*dge bsnyen dad pa can*)![68] When there is no trustworthy lay brother, it must be hidden by a novice! When there is no novice, it must be hidden by the monks themselves!"

Since hiding the treasure involved, according to the text, digging a hole (*dong brko bar bya ba*), the monks also did not know who should do the digging, and the Buddha gave the same instructions for that activity too. Then the text ends with the Buddha saying: "Monks, that which I allow in times of distress should not be practiced in conditions of ease, *dge slong dag ngas phongs pa'i dus dag tu gnang ba gang yin pa de bde ba'i gnas skabs dag tu spyad par mi bya ste* – and it is virtually certain that the Sanskrit translated here by *phongs pa'i dus* was *āpatkāla*.[69]

But if texts like these show Mūlasarvāstivādin *vinayadharas* allowing – like their *dharmaśāstric* colleagues – certain conditions to determine the application of specific rules, and if they show them disinclined to rely on lay surrogates and even suspicious of them,[70] still other passages seem to show them much more inclined than their Mahāvihārin brothers to call a spade a spade. We have already seen repeated and straight forward references in the *Mūlasarvāstivāda-vinaya* to monks selling things, but one

particular text brings out especially clearly the differences between it and the *Theravāda-vinaya*. The text in question occurs in the *Kṣudrakavastu*[71] and concerns "a woolen blanket worth a great deal" – *chen po la 'os pa'i la ba*, which is almost perfectly translated into Pāli as *mahaggho kambalo*. This woolen blanket was donated to the Community, but because of its great value the Buddha ruled that unlike other gifts of cloth it should not be cut up and distributed. Rather, he says: "Whatever acquisition of cloth of such kind falls to the Community, that should be sold for money and the money divided! (*de lta bas na dge 'dun la gos kyi rnyed pa de lta bu grub pa gang yin pa de kar sha pa ṇa dag tu bsgyur la kar sha pa ṇa dag bgo bar bya'o /*). While the Tibetan here might itself involve a mild euphemism in its use of *bsgyur ba*, "to transform or change into," the Sanskrit almost certainly would not since it almost certainly had a form of *vi√krī* here – forms of *vi√krī* are well attested equivalents for *bsgyur ba*,[72] and since the Tibetan transliterates *kārṣāpaṇa*, "money," here also there is not the slightest doubt that the text in both languages meant "to sell." But the *Theravāda-vinaya* also has a short text – completely shorn of context – ruling on what should be done with a "woolen blanket of great value" – *mahaggho kambalo*. These two texts cannot, it seems, be unrelated[73] and yet the language of the Pāli text is on its own – or at least as it has been translated – not immediately transparent. In the Pāli text the Buddha is made to say: *anujānāmi bhikkhave phātikammatthāya parivattetun ti*, and this has produced some awkward translations. Rhys Davids and Oldenberg have represented it by: "I allow you, O Bhikkhus, to barter . . . these things in order to increase the stock of legally permissible furniture," but this, of course, is more of a paraphrase than a translation, and the added gloss – "the stock of legally permissible furniture" – itself runs into trouble because, as the attached note implies, *kambala* is nowhere declared 'impermissible.' Horner's translation is much less padded, but no more straightforward: "I allow you, monks, to barter it for (something) advantageous," and Wijayaratna understands it to mean that the monks "were allowed to exchange it for something else."[74]

Part of the problem here must be that *phātikammatthāya* is a very unusual expression. According to the recent and very useful *Index to the Vinaya-Piṭaka* it occurs in the Pāli *Vinaya* only in this passage and the one that immediately follows it. The only other related form – *phātikātum* – also only occurs once in the entire *Vinaya*.[75] The Pāli Text Society Dictionary gives for *phātikamma* in our passage the meanings "increase, profit, advantage" and *phātikātum* in the phrase *na paṭibalo . . . adhigataṃ vā bhogaṃ phātikātum* at *Vinaya* i 86.12 has been

rendered by Horner as "I am not able . . . to increase the wealth (already) acquired."[76] Since *parivatteti* is certainly used in the *Vinaya* to mean "invert," "barter" and "exchange" – the latter at least once where "gold and silver" is "exchanged" for some product – it would seem that the phrase *phātikammātthāya parivattetun* should mean "to exchange/barter/sell for the purpose of making a profit," or something very like that. But if it does mean that – and the Mūlasarvāstivādin parallel also would suggest it should – that meaning is, again, not immediately obvious and requires some effort to see. Perhaps the most easily available explanation for this lack of transparency is that it is intentional, that in having the Buddha say *phāṭikammātthāya parivattetun* the redactors of the Pāli *Vinaya* were employing a conscious euphemism. A reluctance on the part of modern scholars to see what even Pāli texts might have been saying probably has also not helped the discussion.

The larger issue in all of this is, however, rather simple. It would appear that we have a great deal yet to learn about what has been presented as, or assumed to be, a settled issue: whether or not and to what degree Buddhist *Vinaya* literature – all Buddhist *Vinaya* literature – allowed, permitted or mandated the participation of monks in commercial activity. Our *Uttaragrantha* texts make a significant contribution towards understanding the Mūlasarvāstivādin position(s) on these issues, and the text most immediately at hand here (IV) would seem to indicate not only that Mūlasarvāstivādin monks were expected to engage in monetary purchases on a regular basis, but also that Mūlasarvāstivādin *vinayadharas* were redacting rules that would address at least some of the problems between merchants and monks that could arise from these activities. The ruling in IV seems, indeed, to have no other purpose than to establish a procedure that – again without exposing community assets – would provide merchants some assurance that credit extended to a Buddhist monk would be made good by the inheritors of his estate upon that monk's death. This ruling, even more than the others we have seen, would seem to favor the creditor over the monks: what would otherwise have gone to them must be used to make up any shortfall that results from the sale of what the deceased had bought on credit. But like the other rulings, this ruling too is most directly engaged in establishing the liabilities of monks in regard to the estate of a fellow-monk, not their rights. Our *vinayadhara*, however, is not yet finished.

*

The vast majority of the canonical texts dealing with monastic inheritance that were digested by Guṇaprabha do not in fact deal with the issue of

liability. They are overwhelmingly concerned with rights. There are texts dealing with the rights of nuns to the estate of a dead monk (ii – except in the absence of other monks they have none), and vice versa (iii – to the same, though reversed, effect). There are texts detailing the rights of monks to the estate of another monk who dies between monastic boundaries (*sīmā*) (viii), or to the estate of one of a group of travelling monks who dies within the monastic boundaries of another group (xi). There are texts determining the priority of the rights of monks to the estate of a dead monk which is in the possession of a layman (xiii), and a considerable number of others. The next two texts in the sequence of texts from the *Uttaragrantha* that we are here dealing with form, then, in at least some sense, a subset of this larger group: they too deal with the rights of monks. But they also belong to our sequence because they address the issue of debt. In these two cases, however, the issue is not what a monk owed at the time of death, but rather what was owed to him. These last two texts are even shorter than the others and are most conveniently treated together.

*

V. (=xvii)
Tog Na 192a.2–7 = Derge Pa 133b.1–4 = Peking Phe 130a.2–6

gleng gzhi ni mnyan du yod pa na[1] */ dge slong zhig gis tha ga pa la ras 'thag pa'i phyir skud pa dang / rngan pa byin pa las / dge slong de dus 'das nas*[2] */ dge slong rnams kyis tha ga pa la*[3] *bos te / bzhin bzangs*[4] *khyod la dge slong ming 'di zhes bya bas ras 'thag pa'i phyir skud pa dang rngan pa byin pa de slar*[5] *phul cig ces smras pa dang / des 'phags pa rnams bdag gis de la ras sbyin*[6] *par byas kyis*[7] */ skud pa dang rngan pa ni ma lags so zhes smras pa dang / dge slong rnams kyis de ji ltar bya ba ma shes nas / de ltar gyur pa dge slong rnams kyis / bcom ldan 'das la gsol pa dang /* [8)]*bcom ldan 'das kyis dge slong rnams tha ga pa smra ba ni bden gyis ras su long zhig ces smras pa dang*[(8] */ dge slong rnams kyis phra mo las bkug pa dang / des*[9] *'phags pa rnams bdag gis de la sbom po sbyin par byas so zhes smras pa dang / bcom ldan 'das kyis bka' stsal pa / dge slong de ni dus 'das kyis ci*[10] *ltar byin pa de lta bu long zhig*[11] */*

1) Peking: adds *ste*. 2) Derge, Peking: have *dus 'das pa dang* instead of *dus 'das nas*. 3) Derge: omits *la*. 4) Peking: *bzang*. 5) Peking: *slab*. 6) Peking: *byin*.7) Derge, Peking: *kyi*. 8)(8 Derge, Peking: *bcom ldan 'das kyis dge slong rnams la bka' stsal pa tha ga pa smra ba ni bden gyis* [Peking: *gyi*] *ras su long shig ces bka' stsal pa dang*. 9) Derge: *de la*. 10) Derge, Peking: *ji*. 11) Derge, Peking: *shig*.

VI. (=xviii)
Tog Na 192a.7–192b.5 = Derge Pa 133b.4–134a.1 = Peking Phe 130a.6-130b.1

gleng gzhi ni mnyan du yod pa na ste / dge slong zhig gis gos 'tshong ba la kar sha pa ṇa[1] *byin te / ras shig byin cig ces smras pa dang / dge slong de dus 'das nas / dge slong rnams kyis gos 'tshong ba la bos te / bzhing bzangs*[2] *khyod la dge slong ming 'di zhes bya bas ras kyi rin zhig byin pa de 'on cig ces*[3] *smras pa dang / des 'phags pa rnams de la*[4] *ras su sbyin par bgyis so zhes smras pa dang / dge slong rnams kyis de la ji ltar bya ba mi shes so /*

de ltar gyur pa dge slong rnams kyis bcom ldan 'das la gsol nas / bcom ldan 'das kyis dge slong rnams gos 'tshong ba de smra ba ni bden gyis / ras su long zhig[5] *ces smras pa dang / dge slong rnams kyis phra mo bkug pa dang*[6] */ des 'phags pa rnams*[7] *bdag gis de la sbom po dbul bar bgyis so zhes smras pa dang / bcom ldan 'das kyis bka' stsal pa / dge slong de ni dus 'das na ji lta bu byin pa de bzhin du long zhig*[8] */*

1) Derge: *kār shā pa ṇa*. 2) Peking: *bzang*. 3) Peking: *cas*. 4) Tog: omits *de la*, but has it in the similar statement below. 5) Derge, Peking: *shig*. 6) Derge, Peking: *bkug nas* instead of *bkug pa dang*. 7) Peking: omits *rnams*. 8) Derge, Peking: *shig*.

*

V. (=xvii)

The setting was in Śrāvastī. When after a monk had given thread and wages to a weaver for the purpose of having cloth woven, and the monk died, the monks summoned the weaver and said: "Sir, the monk named so-and-so gave you thread and wages for the purpose of having cloth woven and you must give that back!" But the weaver said: "Noble Ones, since I was to give him cloth, there is no thread or wages." And when the monks did not know what to do in regard to that they reported to the Blessed One what had occurred, and the Blessed One said: "Monks, since what the weaver says is true, you must accept cloth!" But the monks called for fine cloth, and the weaver said: "Noble Ones, I was to give him coarse." And the Blessed One said: "Since that monk is dead you must accept what is given!"

VI. (=xviii)

The setting was Śrāvastī. A monk gave money to a cloth merchant and said "You must give me cloth." But when that monk died the monks summoned the cloth merchant and said: "Sir, the monk named so-and-so gave you the price of the cloth and you must return it!" But the cloth merchant said: "Noble One, cloth was to be given to him," and the monks did not know what to do in regard to that.

When the monks had reported to the Blessed One what had occurred the Blessed One said: "Monks, since what the cloth merchant says is true, you must accept cloth!" But the monks called for fine cloth, and the cloth merchant said: "Noble One, I was to give him coarse." And the Blessed One said: "In that that monk is dead, what sort is given, so you must accept!"

*

There is a good deal that is by now not new in these two little texts, the last two in our continuous sequence from the *Uttaragrantha*. The Community or corporation (*saṅgha*) is again noticeable only by its absence; it has no role in the actions undertaken, nor in the resultant ruling. The text is dealing with the estate of an individual monk who had entered into a private transaction with another private individual, and a claim lodged by a group of individual monks. It is by now hopefully clear that for our *vinayadhara* "a group of individual monks" does not constitute a or the *Saṅgha*. Which monks are included in the group is here not explicitly stated although context and the texts seen previously allow, or even require, the assumption that here too "the monks" referred to are the monks who will participate in the division of the estate – in effect the dead monk's heirs – and a large number of Guṇaprabha's canonical texts are in fact taken up with determining who and in what circumstances these will be (ii–viii; xi–xiii; xx; etc.). There is, moreover, no reference in our last two texts to the monks having already divided the estate almost certainly because, as is clear from still other texts (vii; ix), procedure required that the content of the estate should be determined and gathered before any division takes place, and the monks in our two texts are engaged in that necessary preliminary.

In these two texts we also have, as in several earlier instances, monks interacting with merchants and tradesmen. There is another cloth merchant and also a weaver – *tha ga pa / ba* is an attested equivalent of *tantuvāya* – and in regard to the latter specific reference to "wages" (*rngan* = *bhṛtikā*). The *Mūlasarvāstivāda-vinaya* has in fact a wealth of material on wage labor, but it has yet to be studied. And if there were any lingering doubts about whether our monks were thought to enter directly into financial transactions with tradesmen, or to directly purchase goods from merchants, V and VI should put them very much at rest. Here we see monks themselves hiring weavers and themselves buying cloth. What is different here – especially from the tales of smiths and cobblers referred to above – is that in these two cases the monks actually paid in advance, and therein lay the problem.

What is new here is that in these last two cases the monks concerned did not die in debt. When they died something in both cases was owed to them, and the primary purpose of our two texts was, it seems, to determine what that was, and what the deceased's co-religionists had a right to expect, what, in short, they could or could not legitimately seek to recover. Notice that the monks' right to institute an action for recovery was not argued or ruled upon: it was simply assumed; but notice too that it is "the monks"

right to institute the action, not the Community's . This, presumably, is based on the fact that since they will inherit and therefore will be obligated – within established limits – to pay the deceased's debts, they also have the rights to anything that was owed to him. Although, again, none of this is here explicitly stated, the assumption that the right of recovery inhered in "the monks" is at least narratively asserted to have been held by both monks and merchants: neither the weaver nor the cloth merchant challenge the monks' right to make their claim. The challenge of both is only to its terms, and here we strike an element that, while not necessarily new, is certainly far more pronounced in our last two texts.

It is something of a truism in the history of law that one of the very earliest – if not indeed *the* earliest – forms of contract was debt. It is, moreover, notoriously difficult in a number of contexts to clearly separate a law of debt from contract law. That starting with IV, but more certainly with V and VI we have moved almost imperceptibly from the former to the latter should not, then, be an undue surprise. The dispute in both V and VI – if we may call it such – is not about the rights of the monks to make a claim for recovery. That, as we have seen, is conceded. The dispute, and the Buddha's ruling, are about the terms, about, in other words, the terms or provisions of what would have to be called the contract. Although neither text uses a term for 'contract' – and this may have some chronological significance – both carefully state the intended nature of the transaction that the dead monk had entered into: V explicitly states the purpose for which the deceased had transferred his property to the weaver – "for the purpose of having cloth woven;" in VI the deceased himself declares the merchant's obligation – "You must give me cloth." The acceptance of thread and money on the part of the weaver and merchant – which is a narrative fact – would have signalled their acceptance of the terms of the contract, and their understanding of those terms is made explicit in response to the action of the monks. They, the Buddha, and the dead monk are all in fact presented as understanding that the contract or agreement called for cloth.

Given the careful presentation of the 'facts' by our *vinayadhara* it is impossible not to see the action of the monks as the issue, although that action can be described in more than one way. It could be said that the monks were attempting to recover something other than what was specified in the contract; it could also be said that they were in effect seeking to abrogate or annul the contract. However phrased, this is what the Buddha is asked to adjudicate and his ruling is unmistakably that either or both is at fault. He – like the weaver and merchant – does not question the monks' right of recovery, but he – again like the weaver and merchant – in effect

insists that that right only operates within, and is constrained by, the terms of the dead monk's agreement. What had been instituted and agreed to by the monk while alive cannot be altered by either party – notice that merchant and weaver do nothing else than insist on the original terms. The Buddha's original ruling, then, does no more nor no less than insist that his monks abide by the terms of the contract that their now deceased fellow monk had entered into with both weaver and merchant. He insists, in other words, on the rule of law, in this case the accepted law of contract, and by doing so he makes this accepted law of contract a specific element of Buddhist monastic law.[77]

The second ruling of the Buddha in both V and VI seems to be directed toward the question of witness, although here too no such term is used. As the case is developed, at least, the dispute comes down to the narrative fact that although both parties now agree that by terms of the original contract 'cloth' was to be delivered and the monks, in compliance with the Buddha's first ruling, are seeking only to recover that, there is a disagreement as to the quality of that cloth. In the first ruling the Buddha had declared that what the merchants said was true and the monks must act accordingly. In his second ruling, however, the Buddha does not explicitly say this, and the implications seem to be that although the fact that there was a contract, and the broad content of it, can both be determined in the absence of one party – the now dead monk – a determination of its finer terms must depend on, and be conceded to, its surviving witness; that is to say, the merchants. Once again, it seems, the Buddha's ruling does not necessarily favor the monks, but would seem rather to accommodate the authority of lay claims and to insist, once again, on his monks playing according to lay rules. This apparent emphasis on accommodation – whether rhetorical or real – in fact brings us to the last text from the *Uttaragrantha* that we can look at here.

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What has so far been presented here will probably suggest an unexpectedly sophisticated and developed Buddhist monastic law of debt and contract. But it is well to keep in mind that what we have seen is really only a small part – a distinct sub-set – of a much larger corpus of Mūlasarvāstivādin *Vinaya* texts that articulate an equally sophisticated monastic law of inheritance. Confronted with this substantial corpus certain questions seem unavoidable, but the chief of these would seem to be quite simply, how did all of this happen, how did what was supposed to have been little more than groups of celibate men without possessions, social ties, or fixed addresses, get tangled up with property law and

laws of inheritance, with *dharmaśāstra* and *kārṣāpaṇas* and commercial deals? Any answer here will undoubtedly be a long time coming and very complicated, and may end in seeing that in fact these groups were so entangled from the start. But modern historians themselves might start with a clear awareness of the fact that they are not the first to have tried to offer some kind of answer to at least a part of the question – our *vinayadharas* had already done so in our final text.

Our final text here is actually the first to occur in the *Uttaragrantha* – it occurs almost seventy folios before the sequence of texts dealing with private debts of individual monks, and more than a hundred and sixty folios before the text on corporate or community debt. There are, moreover, good reasons for thinking that it was intended as, or at least taken to be, the Mūlasarvāstivādin 'origin tale' for monastic inheritance law, the textual source, in other words, for how all of this came to be. Perhaps the best evidence that this was so is the fact that our final text was the first of the canonical sources that is given by Bu ston for Guṇaprabha's *sūtra*s on inheritance – it (I) stands at the head of, and was by implication the foundation for, all the rest. This foundational character of I is also suggested, as we will see, by its contents. It gives a series of initial solutions – none of which worked – to the problem of what to do with the property which a deceased monk left behind, and it is presented as if it were the first of the Buddha's rulings to do so. In fact it begins with a 'period' during which a very different approach was taken to the issue, a 'period' before which, it seems, the Buddha had made any ruling on the matter.

I. (=i)
Tog Na 121b.2–122b.5 = Derge Pa 85a.3–86a.2 = Peking Phe 82b.5–83b.2

sangs rgyas bcom ldan 'das mnyan du yod pa na dze ta'i[1] *tshal mgon med zas sbyin gyi kun dga' ra ba na bzhugs so /*

mnyan du yod pa na khyim bdag gzhan zhig 'dug pa des / rigs mnyam pa las chung ma zhig blangs nas / de de dang lhan cig[2] *tu rtse dga' zhing*[3] *yongs su spyod do / de rtse dga' zhing yongs su spyad pa las / de'i chung ma sems can dang ldan par gyur te / de zla ba brgyad dam dgu lon pa dang bu pho zhig btsas te / de zhag bdun gsum nyi shu*[4] *gcig gi bar du btsas pa'i btsas ston chen po*[5] *rgya cher byas nas / rigs dang mthun*[6] *par ming btags*[7] *so /*

de dus phyi[8] *zhig na bcom ldan 'das kyi bstan pa la rab tu byung nas / de yang dus phyi zhig na nad kyis btab ste dus 'das pa*[9] *dang / dge slong dag gis de lhung bzed dang chos gos dang bcas te dur khrod du bor ba bram ze dang khyim bdag lam der byung ste*[10] */ dong ba de dag gis mthong nas / de dag gcig la gcig gtam du 'dzer cing 'dong ste / kye bdag cag khyim pa khyim na gnas pas thabs*[11] *rnam pa du mas nor rdzas dag bsgrubs kyang snod spyad dang gos dag ni mi 'dor na / dge sbyong shā kya'i bu 'di dag ni sgo'i them*[12]

pa brgya rgal zhing dka' bzhin du lto 'gengs shing bsod snyoms bsgrub[13] *na / ci'i phyir lhung bzed dang chos gos 'dor zhes smra ba na / dge slong dag kyang de'i mdun nas tshur 'ongs pa dang / de dag gis de dag la smras pa / 'phags pa bdag cag khyim pa khyim na gnas te / thabs rnam pa du mas nor rdzas bsgrubs kyang snod spyad dang gos mi 'dor na / khyed cag sgo'i them pa brgya rgal zhing dka' bzhin du*[14] *lto 'gengs*[15] *pa'i bsod snyoms bsgrubs te / lhung bzed dang chos gos 'di ga las 'ong na de ci'i phyir khyed kyis dge slong 'di'i lhung bzed dang chos gos su bcas te dur khrod du bor zhes smras pa dang / de dag gis bcom ldan 'das kyis ma gnang ngo zhes smras pa dang / de dag cang mi zer bar dong ngo /*

de ltar gyur ba dge slong dag la smras pa dang / dge slong dag gis / bcom ldan 'das la gsol to /

bcom ldan 'das kyis bka' stsal pa / lhung bzed dang chos gos su bcas te ma dor cig /

bcom ldan 'das kyis lhung bzed dang chos gos su bcas te ma dor cig ces gsungs[16] *pa dang / dge slong dag*[17] *gis gcer bur bor nas / bcom ldan 'das kyis bka' stsal pa / gcer bur ma dor bar smad g-yogs dang rdul gzan*[18] *gyis bkris*[19] *te bor cig /*

de nas dge slong dag gis gos bzang po dang bor nas / bcom ldan 'das kyis bzang po dang ma dor cig ces bka' stsal pa dang / de dag gis ngan pa dang bor ro /

bcom ldan 'das kyis ngan pa dang[20] *yang ma dor bar 'bring po dang bor cig ces bka' stsal to /*

bcom ldan 'das kyis lhung bzed dang chos gos su bcas te ma dor cig ces bka' stsal pa dang[21] */ dge slong dag gis ji ltar bya ba mi shes nas / bcom ldan 'das kyis dge slong gang 'phongs ba de la byin cig ces bka' stsal to /*

drug sde dag rtag tu 'phongs pa ltar byed[22] *nas / bcom ldan 'das kyis drug sde dag la ma sbyin par / ji ltar rgan rims bzhin du byin cig ces bka' stsal pa dang / gsar bu dag ma thob par gyur nas / bcom ldan 'das kyis dris pa la lan 'debs pa'i dge slong gis dge 'dun la bsgo la / dge slong gi dge 'dun thams cad 'dus shing 'khod pa dang / gtsug lag khang skyong gis dge 'dun gyi nang du rin thang bskyed par byos shig ces bka' stsal to //*

1) Peking: *'dze ta'i*. 2) Peking: *gcig*. 3) Derge, Peking: omit *zhing*. 4) Derge, Peking: add *rtsa*. 5) Peking: omits *chen po*, but this looks like a 'correction.' 6) Peking: *'thun*. 7) Peking: *gtags*. 8) Peking: *phyis*. 9) Derge, Peking: *dus las 'das pa*. 10) Derge, Peking: *pa* instead of *ste*. 11) Peking: *thams cad* instead of *thabs*. 12) Peking: *tham*. 13) Derge, Peking: *sgrub*. 14) Peking: omits *du*. 15) Peking: *'grengs*. 16) Peking: *bsungs*. 17) Peking: omits *dag*. 18) Peking: has either *bran* or *zan* as the second member of the compound – it is difficult to read. 19) Derge: *dkris*; Peking: *dgris*. 20) Derge, Peking: omit. 21) Peking: omits *dang*. 22) Peking: *byas*.

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The Buddha, the Blessed One, was staying in Śrāvastī, in the Jetavana, in the Park of Anāthapiṇḍada.

When a householder living in Śrāvastī had taken a wife from a suitable family he enjoyed himself and made love with her. From that enjoyment and love making his wife became pregnant, and, eight or nine months passing, she gave birth to a male child. When, during three times seven or twenty one days, the birth festival for the newborn had been performed in detail, he was given a name which was in conformity with the family.

When at a later time the son had entered the religious life in the Order of the Blessed One, and still later had been struck with illness and had died, the monks had thrown him, together with his bowl and robes, into the burning ground. When brahmins and householders coming out and going along the road saw him they talked among themselves as they went: "Hah! When we laymen living in a house do not throw away vessels and garments

even though we can acquire money and goods in all sorts of ways, how is it that these Buddhist ascetics, when they cross a hundred thresholds and still with difficulty fill their bellies and get alms, throw away bowls and robes?" While they were saying this monks too were returning from there and the laymen said to them: "Noble Ones, when we laymen living in a house do not throw away vessels and garments even though we can acquire money and goods in all sorts of ways, and when you, crossing a hundred thresholds still get alms that fill your bellies with difficulty, where did this bowl and robe come from, and how is it that you have thrown that body[78] into the burning ground together with this monk's bowl and robes?" But the monks said: "The Blessed One has not authorized it otherwise," and they left without saying more.

The monks told the other monks what had occurred, and those monks reported it to the Blessed One.

The Blessed One said: "He must not be thrown out together with his bowl and robes!"

When the Blessed One had said "He must not be thrown out together with his bowl and robes," and the monks threw the corpse out naked, the Blessed One said: "It must not be thrown out naked, but wrapping it with an undergarment and a sweat cloth it must be thrown out!"

Then when the monks threw it out with expensive cloth the Blessed One said: "It must not be thrown out with the expensive!", and the monks threw it out with the cheap.

The Blessed One said: "It must also not be thrown out with the cheap, but it must be thrown out with the run-of-the-mill!"

When the Blessed One said: "He must not be thrown out together with his bowl and robe," and the monks did not know what should be done with them, the Blessed One said: "They must be given to that monk who is poor!"

When the Group of Six constantly acted as if they were poor the Blessed One said: "They must not be given to the Group of Six, but they should be given according to seniority. But when the junior monks did not get any the Blessed One said: "The Monk-Who-Answers-Questions[79] must summon the Community, and when the whole Community of Monks is assembled and seated the Guardian-of-the-Monastery[80] must auction[81] them in the midst of the assembly!"

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The narrative logic of our final text – again the first to actually occur in the *Uttaragrantha* – is not difficult to discern if we move from the end backwards. A monk's estate is sold at auction in the midst of the Community by a monastic officer to insure an otherwise unachievable equitable distribution. (Though not here explicitly stated, it is virtually certain from other references to monastic sales, like that of the valuable woolen blanket already cited, that this sale would be followed by the division among the monks of the proceeds). Some form of distribution was required because the Buddha himself had ruled that the monks could not simply throw a dead monk's property away, and it did not by implication belong to the Community either. It could not be thrown away because to do so would invite and had produced lay criticism – that criticism, which is expressed in one very long sentence that is not easily turned into felicitous English, comes down to this: monks who would do so are even

by lay standards profligate and wasteful; and monks who could afford to do so were not what they made themselves out to be. Ergo, monks kept the estates of their deceased brethren and disposed of them responsibly to accommodate lay standards and expectations! It is a nice argument and one by which the monks win both ways: they get to keep the goods *and* what the *vinayadhara* seemed to think was their good reputation. But others might see here some loss.

The actions of the monks in our text in regard to the estate of the dead monk, prior to the Buddha's ruling, appear to be fully consonant with ascetic ideals and a life of voluntary poverty – they simply left his property with his corpse in the cemetery. It is the intervention of the Buddha and the force and consequences of his ruling that move his monks away from what might have been thought was his own ideal and, in effect, involves them with the whole issue of inheritance law and sales by auction: once the estate was kept something had to be done with it. This movement – if movement it was – is presented by the text itself as entirely the result of lay reaction to narratively prior practice: the monks themselves did not want or seek to retain the estate; lay criticism forced it on them. This quite clearly is the sub-text of the tale, and since this tale was apparently understood to stand as the foundation for all the rest of Mūlasarvāstivādin inheritance law it would appear to represent that tradition's understanding of how, in our words, all this came to be. The charge – if there was to be a charge – was laid firmly at the feet of laymen. The Buddha did not innovate, he only reacted to lay pressure; the monks did not assert their own individual or institutional interests, they only accommodated lay values. The question that remains here – and it is a historical one – is, of course, whether and in what sense any of this is true. Does the traditional explanation in fact identify an actual historical mechanism that operated in the development of Buddhist monastic orders, or is it just a tale told by monks to other monks to explain why things are as they are; an explanatory trope they used to cover their tracks? Although I am not at all sanguine that this question can ever be fully or satisfactorily answered, an attempt might at least flush out some useful observations.

There are several discomfitting things about our origin tale, but the first must be the fact that the laymen in our text criticize Buddhist monks for doing what elsewhere in our *Vinaya* laymen themselves do, or are said to do. The laymen in our text say not once, but twice, that they "do not throw away vessels and garments," and given the context this would seem to refer to their funereal practices. But – to cite only one very clear example – the *Vinayavibhaṅga* has a text that says that laymen did in fact the very thing they criticize monks for doing. The *Vibhaṅga* text concerns a monk with

the unsavory name of Mahākāla. He is described as "one who obtained everything from the burning ground" (*thams cad dur khrod pa dang ldan pa yin te*) – his bowl, robe, alms, etc. The text then goes on to explain what this means:

> "What is an alms bowl from the burning ground? It is like this – his relatives throw away in the burning ground the pot of one who has died and passed away (*nye du dag gis shi zhing dus la bab pa'i rdze'u dur khrod du 'dor bar byed pa*). Then the Venerable Mahākāla, squaring the pieces and having heated them, takes possession of it as an alms bowl and keeps it. Just so is an alms bowl from the burning ground.
>
> And what is a robe from the burning ground? It is like this – his relatives throw away in the burning ground the garments of one who has died and passed away (*nye du dag gis shi zhing dus la bab pa'i gos dag dur khrod du 'dor bar byed pa*). Then the Venerable Mahākāla washes and stitches them and, having altered them, he takes possession of them as a robe, etc.[82]

Apart from noting it, it is hard to know what to do with this discrepancy. Our text has laymen saying that they do not throw away vessels and garments, and the verb here is *'dor ba*. But the *Vibhaṅga* represents them as routinely doing just that, at least in their funereal practice, and the verb here too is *'dor ba*. Seen in light of the *Vibhaṅga* passage the practice of Buddhist monks prior to the Buddha's ruling in the *Uttaragrantha* would have to be seen as conforming almost exactly to lay practice and, therefore, hardly open to the kind of criticism it receives. Since there are a significant number of other passages elsewhere in this *Vinaya* referring to a variety of goods deposited in burning grounds – indeed the *śmāśānika*, a distinct category of monks, would seem to presuppose this – a Mūlasarvāstivādin monk who knew his *Vinaya* might be legitimately puzzled by the explanation offered in our text for how monks came to be required to retain the estates of a deceased member of their community. That same monk, moreover, would almost certainly have noticed something else as well.

A Mūlasarvāstivādin monk who knew his *Vinaya* would almost certainly have noticed that the text in the *Uttaragrantha* which explained the origin of Mūlasarvāstivādin inheritance law was remarkably similar to another text about another dead monk and the problems that what he left behind had created. This other text – found in the *Kṣudrakavastu* – is one of two that explain the origin of Mūlasarvāstivādin monastic funerals. The *Kṣudrakavastu* text is now easily available[83] and can therefore be only briefly summarized here. A householder in Śrāvastī took a wife from a suitable family, laid with her, and as a consequence a son was born. The birth festival was held and he was named. Later the son entered the Buddhist Order, but got sick and died. Up to this point, of course, the text in the *Kṣudraka* tells the same story, using very much the same language as our *Uttara* text. And the similarity continues. The former then says: "The

monks left him (i.e. his body), together with his bowl and robes, near a road (*de dge slong dag gis lhung bzed dang bcas / chos gos dang bcas par lam dang nye ba zhig tu bor ro /*)." Then brahmins and householders come along, see the body discarded along the road, and scoff at Buddhist monks and their practices. The Buddha when told of this then gives a detailed set of rulings governing a monk's funeral, indicating that the body must be properly and ritually treated and that ideas of death–pollution must be accommodated.

Both texts are obviously built up on the same narrative armature, and in both, it seems, the Buddha's ruling moves monastic practice away from what might have been thought to be something like Buddhist doctrine. Once again the monks' behavior prior to the ruling – the casual discarding of the body, the absence of ritual, and the lack of concern for social and religious norms, especially in regard to pollution – would seem to have been far more consonant with formal Buddhist notions of 'person' and body. But once again they are not allowed to stand. Once again too this movement away from Buddhist ideal and toward social convention is caused or motivated by, and explained as a reaction to, social criticism. In other words, our monk might well begin to detect an explanatory pattern. If he knew both accounts he might, moreover, have noticed not just the pattern, but might even have concluded that the ruling governing funerals must have preceded the ruling governing inheritance, at least in narrative time, because the monks in the *Kṣudraka* were still disposing of the bowl and robes together with the body and this, narratively, had not yet become an issue and had not yet been ruled against by the Buddha.

The criticism spoken by the brahmins and householders in the *Kṣudraka* is also particularly interesting. When they see the discarded body their conversation goes like this:

> One said: "Hey look, a Buddhist monk has died." Others said: "Come here! Look at this!" When they looked they recognized the dead monk and said: "This is the son of the householder so-and-so. This is the sort of thing that happens when someone joins the order of those lordless Buddhist ascetics. Had he not joined their order his kinsmen would certainly have performed funeral ceremonies for him!"

And this too would have looked familiar to our Mūlasarvāstivādin monk. If he had known his *Bhaiṣajyavastu* he in fact would have encountered something very like it at least twice. Once, for example, in a story about a young monk named Svāti who was bitten by a snake and went unattended. The text says that Svāti "fainted from the poison, fell to the ground, foamed at the mouth, and his face was contorted and his eyes rolled." Then:

> *sa tathā vihvalo brāhmaṇagṛhapatibhir dṛṣṭaṇ / te kathayanti / bhavantaṇ katarasyāyaṃ gṛhapateṇ putra iti / aparaiṇ samākhyātam / amukasya iti / te kathayanti /*

anāthānāṃ śramaṇaśākyaputrīyānāṃ madhye pravrajitaṇ / yadi na pravrajito 'bhaviṣyat jñātibhir asya cīkitsā kāritā abhaviṣyad iti /

Brahmins and householders saw him afflicted in that way. They said: "Of which householder, Sirs, is this the son?" Others reported: "Of so-and-so." They said: "He entered into the religious life in the midst of those lordless Buddhist ascetics – if he had not entered the religious life his kinsmen would certainly have had him medically treated!"[84]

Almost exactly the same conversation among brahmins and householders is also reported to have occurred in the *Bhaiṣajyavastu* when they saw another Buddhist monk named Saikata wandering around insane.[85] The first of these conversations motivated the Buddha to rule that, under a doctor's orders, his monks could take "foul foods" (*vikṛta-bhojana*), and to provide them with a charm against snake bite (the *Māyūrī-vidyā*); the second led him to rule that his monks could – again under the orders of a doctor – take "raw flesh." Though less obviously, perhaps, both of these new rulings also go toward weakening the already lukewarm ascetic ideal found in the *Mūlasarvāstivāda-vinaya*. There is reference in the Mūlasarvāstivādin ordination formulary to the candidate, when a monk, relying for 'medicines' on "medicinal decoctions" (*pūtimukta*) only, and although this sole reliance is already weakened in the formulary itself by a long list of "extra allowances" (*atireka*), the two rulings just cited go a long ways beyond even them.

What our Mūlasarvāstivādin monk might have made of all of this is, of course, hard to determine, but one thing at least is fairly certain, and this itself is of some importance to the historian: Mūlasarvāstivādin monks were repeatedly told by their own *Vinaya* that not just the rules governing monastic inheritance, but a whole range of practices required of them that departed from ascetic ideals and the idea of voluntary poverty, were instituted in direct response to lay criticism.[86] Whether such monks believed this or not may not be as important as the fact that their *vinayadharas* felt compelled, apparently, to repeat it. The fact that their *vinayadharas* did so in a stereotypical way, using the same conventional trope over and over again, makes it at least doubtful that this narrative 'explanation' can tell us anything very certain about actual historical processes. Indeed there are good reasons for suspecting that "brahmins and householders" in India might well have been entirely indifferent to what Buddhist monks did or did not do – it is, after all, only Buddhist literature that says otherwise, and it is perhaps painfully obvious that Buddhist monks were of absolutely no concern or importance for the authors of Indian *dharmaśāstra*: they have no place in this old, large and continuous normative literature.[87] What we see in our *Vinaya*, then, can it seems at best tell us only about one important group of monks and how they chose to represent their community and

its history to other monks. This may have been an influential group of monks – they wrote or compiled the texts and thereby made the rules – but if they were, this is the same group of monks who appear to have had some knowledge of *dharmaśāstra*, even if it had virtually no knowledge of them, and who appear to have been much concerned with representing their Community to their fellow-monks as sensitive to and accommodating towards the norms and values of what they took to be their surrounding community. Knowing even this may prove, perhaps, to be of some value.

ABBREVIATIONS & TEXTS CITED

Bod rgya tshig mdzod chen mo = Zhang Yisun et al, eds., *Bod rgya tshig mdzod chen mo*, Vol. I–III (Beijing: 1985)

BSBM = G. Schopen, *Bones, Stones, and Buddhist Monks. Collected Papers on the Archaeology, Epigraphy, and Texts of Monastic Buddhism in India* (Honolulu: 1997)

Derge = *The Tibetan Tripitaka. Taipei Edition*; ed. A.W. Barber (Taipei: 1991) – cited by original volume letter, folio, and line.

Divyāvadāna = E.B. Cowell & R.A. Neil, *The Divyāvadāna. A Collection of Early Buddhist Legends* (Cambridge: 1886)

Edgerton = F. Edgerton, *Buddhist Hybrid Sanskrit Grammar and Dictionary*, Vol. II (New Haven: 1953)

GMs iii = N. Dutt, *Gilgit Manuscripts*, Vol. III, Pt. 1 (Srinagar: 1947); Vol. III, Pt. 2 (Srinagar: 1942); Vol. III, Pt. 3 (Srinagar: 1943); Vol. III, Pt. 4 (Calcutta: 1950)

Jäschke = H.A. Jäschke, *A Tibetan-English Dictionary* (London: 1881)

JIABS = *Journal of the International Association of Buddhist Studies*

Kaṭhinavastu (Chang) = K. Chang, *A Comparative Study of the Kaṭhinavastu* (Indo-Iranian Monographs I) (The Hague: 1957)

Nārada = R.W. Lariviere, *The Nāradasmṛti* (University of Pennsylvania Studies on South Asia 4) (Philadelphia: 1989) Pts. I&II

Pāli *Vinaya* = H. Oldenberg, *The Vinaya Piṭaka* (London: 1879–1883) 5 Vols.

Prātimokṣa = A.C. Banerjee, *Two Buddhist Vinaya Texts in Sanskrit. Prātimokṣa Sūtra and Bhikṣukarmavākya* (Calcutta: 1977)

Pravrajyāvastu (Eimer) = H. Eimer, *Rab Tu 'Byuṅ Ba'i Gźi. Die tibetische Übersetzung des Pravrajyāvastu im Vinaya der Mūlasarvāstivādins* (Asiatische Forschungen Bd. 82) (Wiesbaden: 1983) Teil 1–2.

Saṅghabhedavastu (Gnoli) = R. Gnoli, *The Gilgit Manuscript of the Saṅghabhedavastu. Being the 17th and Last Section of the Vinaya of the Mūlasarvāstivādin* (Serie Orientale Roma 49.1&2) (Roma: 1977–1978) Pts. I–II.

Śayanāsanavastu (Gnoli) = R. Gnoli, *The Gilgit Manuscript of the Śayanāsanavastu and the Adhikaraṇavastu. Being the 15th and 16th Sections of the Vinaya of the Mūlasarvāstivādin* (Serie Orientale Roma 50) (Roma: 1978)

Vinayasūtra (Sankrityayana) = R. Sankrityayana, *Vinayasūtra of Bhadanta Guṇaprabha (Singhi Jain Śāstra Śiksāpītha*. Singhi Jain Series – 74) (Bombay: 1981)

Vinayasūtra & Auto-Commentary (Bapat & Gokhale) = P.V. Bapat & V.V. Gokhale, *Vinayasūtra and Auto-Commentary on the Same by Guṇaprabha* (Tibetan Sanskrit Works Series 22) (Patna: 1982)

NOTES

[1] P. Olivelle, *The Āśrama System. The History and Hermeneutics of a Religious Institution* (New York/ Oxford: 1993) 51; C. Malamoud, *Cooking the World. Ritual & Thought in Ancient India*, trans. D.White (Delhi: 1996) 95 (for the original French version see C. Malamoud, "La théologie de la dette dans le brahmanisme," *Puruṣārtha: Science sociales en asie du sud* 4 (1980) 39-62); see also M. Hara, "*Ānṛṇya*," in *Langue, style et structure dans le monde indien. Centenaire de Louis Renou*, éd. N. Balbir et al (Paris: 1996) 235–261. – The redactors of the *Mūlasarvāstivāda-vinaya*, the text we will be most directly concerned with here, clearly knew something of this brahmanical anthropology. For example, the father of a newborn son is repeatedly said in this *Vinaya* to declare to his wife, in a narrative cliché, *bhadre jāto 'smākam ṛṇaharo dhanaharaṇ*, which in spite of Edgerton (s.v. *ṛṇadhara*), and in light of far more occurrences than he knew and their Tibetan translations, must mean "My dear, (both) a remover of our debt (and) a taker of our wealth has been born to us" (see for occurrences of the cliché in Sanskrit, in addition to those cited from the *Divyāvadāna* by Edgerton: *Bhaiṣajyavastu*, GMs iii 1, 87.5; *Pravrajyāvastu*, GMs iii 4, 54.1; *Saṅghabhedavastu*, (Gnoli) ii 32.22; 91.9; and the commentary on the cliché in the *Vinayavastuṭīkā*, Derge bstan 'gyur 'dul ba Tsu 284b.1 – cf. E.H. Johnston, *The Buddhacarita* (Calcutta: 1935) IX.65: *naraṇ pitṝṇām anṛṇaṇ prajābhir* . . .). Edgerton's *ṛṇadhara*, by the way, is almost certainly a ghost form that should be disregarded.

[2] The translation here is Olivelle's – *The Āśrama System*, 47.

[3] R.W. Lariviere, *The Nāradasmṛti*, Pts. I–II (Philadelphia: 1989) – The quotation is from Pt. II, ix. All references to Nārada are to this very careful edition.

[4] H. Chatterjee, *The Law of Debt in Ancient India* (Calcutta: 1971).

[5] Chatterjee, *The Law of Debt*, 86, also cites this verse but, since he was using another edition, as IV.9.

[6] P. Olivelle, "Renouncer and Renunciation in the Dharmaśāstras," *Studies in Dharmaśāstra*, ed. R.W. Lariviere (Calcutta: 1984) 81–152; here 145.

[7] Olivelle, "Renouncer and Renunciation in the Dharmaśāstras," 144 (for inheritance of a renouncer's property): 143 (for the quotation).

[8] Even only desultory observation would seem to indicate that some Buddhist monks, in spite of the fact that they sometimes claimed or invoked the status of "renouncer" (*pravrajita*), did not – by the testimony of their own rules – have that status. Olivelle ("Renouncer and Renunciation," 149) has said, for example, "His vow of poverty exempted the renouncer from both tolls and taxes;" but Mūlasarvāstivādin monks at least were both subject to and expected to pay such tolls – their *Vibhaṅga* has a section of more than twenty pages (Derge Ca 72b.6–84a.6) dealing with their obligations in regard especially to road taxes. Olivelle has also said (ibid, 143) that "After renunciation he [the renouncer] can no longer inherit any property;" but again the *Mūlasarvāstivāda-vinaya* has two separate texts dealing with a Mūlasarvāstivādin monk's continuing right to inherit family property *after* his ordination (see *Kṣudrakavastu*, Derge Tha 252b.3–254a.1; *Uttaragrantha*, Derge Pa 130a.4–131a.3 – the first of these has been discussed in some detail in G. Schopen, "Monastic Law Meets the Real World: A Monk's Continuing Right to Inherit Family Property in Classical India," *History of Religions* 35.2 (1995) 101–123). Moreover, as will be seen below, Mūlasarvāstivādin monks are routinely presented as inheriting the estates of deceased fellow-monks. A systematic study of issues of this sort would undoubtedly bear handsome fruit, and might even point to inconsistencies on some of these questions in *dharmaśāstra* itself – see below n. 42.

[9] See, as an example, G. Schopen, "The Monastic Ownership of Servants or Slaves: Local and Legal Factors in the Redactional History of Two Vinayas," *JIABS* 17.2 (1994) 145–173.
[10] Chatterjee, *The Law of Debt in Ancient India*, xxv–xxvi.
[11] Pāli *Vinaya* i 76.18 – Even otherwise very careful scholars have said the same sort of thing – Olivelle, "Renouncer and Renunciation," 146 n.121: "In Buddhism detailed rules were formulated regarding those disqualified from entering the *saṅgha*. Thieves, debtors and slaves were specifically barred from entry. Cf. *Mahā-vagga* 1.39–76;" Olivelle, *The Āśrama System*, 176: "Buddhist literature also indicates that 'being without debt' was a condition for becoming a monk . . . One of the questions put to the candidate for ordination is 'Are you without debt?' A man with debts should not be allowed to become a monk (Vin I, 76) . . . One can understand the concern of the Buddhists; they did not want their monasteries to become havens for people trying to dodge debt collectors;" see also 195 n. 38; R.S. Sharma, "Usury in Early Mediaeval India (A.D. 400–1200)," *Comparative Studies in Society and History* 8 (1965–1966) 74: "The Buddhist Order did not admit a person who had not paid off his debts." –There is what appears to be an occasional reference in brahmanical sources to freedom from debt as a prerequisite (?) to renouncing; see P. Olivelle, *Rules and Regulations of Brahmanical Asceticism: Yatidharmasamuccaya of Yādava Prakāśa* (Albany: 1995) 68; 235 (IV. 19); *Manu* VI. 94; etc.
[12] See G. Schopen, "The Good Monk and his Money in a Buddhist Monasticism of the 'Mahāyāna Period'," *The Eastern Buddhist*, n.s. 32.1 (2000) 85–105; esp. 88ff. For the texts see B. Jinananda, *Upasampadājñaptiṇ* (Patna: 1961) 15.5: (The candidate for ordination must be asked:) *mā te kasyaci[t] kiñcid deyam alpaṃ vā prabhūtaṃ vā [?] yadi kathayati deyaṃ, vaktavyaṃ / śakṣyasi prabrajyâyaṃ dātuṃ [/] yadi kathayati na vivaktavyam ata eva gaccha [/] yadi kathayati śakṣyāmîti vaktavyaṃ*, etc. (i.e. the ordination can proceed); *Pravrajyāvastu*, (Eimer) ii 142.13: *khyod la la la'i bu lon mang yang rung nyung yang rung / cung zad chags pa med dam / gal te bu lon chags so zhes zer na / khyod bsnyen par rdzogs nas 'jal nus sam zhes dri bar bya'o / gal te mi nus shes zer na / 'o na song shig ces brjod par bya'o / gal te bsnyen par rdzogs nas 'jal nus shes zer na*, etc; Kalyāṇamitra, *Vinayavastuṭīkā*, Derge bstan 'gyur 'dul ba Tsu 250b.1: *khyod la la la'i bu lon mang yang rung nyung yang rung cud zad chags pa med dam zhes bya ba ni bu lon ni gzhal bar bya ba yin pas de'i phyir bu lon can rab tu dbyung ba dang rdzogs par bsnyen par mi bya'o / bu lon can thams cad rab tu dbyung ba dang rdzogs par bsnyen par mi bya ba yang ma yin te / 'di ltar gal te rdzogs par bsnyen nas 'jal nus so zhes zer na de rab tu dbyung ba dab* [Peking Dzu 283b.1 has, correctly *dang*] *rdzogs par bsnyen par bya'o /* – Notice that there is some difference in these sources in regard to when the candidate should be able to repay the loan: in the *Upasampadājñapti* it is after he has 'gone forth' or entered the order (*pravrajyā*); in the *Pravrajyāvastu* it is after he has been fully ordained (*upasaṃpanna*); in the commentary it is after both. The '*karmavākya*' from Gilgit says in A.C. Banerjee, *Two Buddhist Vinaya Texts in Sanskrit* (Calcutta: 1977) 63.4: *mā te kasyacit kiñcid deyam alpaṃ vā prabhūtaṃ vā śaknoṣi vā upasampadaṃ dātum*, but the manuscript (R. Vira & L. Chandra, *Gilgit Buddhist Manuscripts* (*Facsimile Edition*) (New Delhi: 1959) Vol. 10.1, 73.5) has: *mā te kasyacit ki[ṃ]cid deyam alpaṃ vā prabhūtaṃ vā śakṣyasi vā pravrajyā dātuṃ*. See also *Vinayasūtra* (Sankrityayana) 4.1; *Vinayasūtra & Auto-Commentary* (Bapat & Gokhale) 20.26; *'Dul ba'i mdo*, Derge bstan 'gyur 'dul ba Wu 4a.4; *Svavyākhyāna*, Derge bstan 'gyur 'dul ba Zhu 20b.1; etc. The statement about repayment is not found in M. Schmidt, "Bhikṣuṇī-Karmavācanā. Die Handschrift Sansk. c.25(R) der Bodleian Library Oxford," in *Studien zur Indologie und Buddhismuskunde. Festgabe des Seminars für Indologie und Buddhismuskunde für Professor Dr. Heinz Bechert zum*

60. Geburtstag am 26. Juni 1992, hg., R. Grünendahl et al (Bonn: 1993) 239–288, esp. 254.1.

13 G. Schopen, *Daijo bukkyō kōki jidai: Indo no sōin seikatsu*, trans. Odani Nobuchiyo (Tokyo: 2000) 70–146; Schopen, "Art, Beauty, and the Business of Running a Buddhist Monastery in Early Northwest India," to appear in the proceedings of the symposium *On the Cusp of an Era: Art in the Pre-Kushan World*, to be held at the Nelson-Atkins Museum of Art in Kansas City.

14 Cf. H. Eimer, "Which Edition of the Kanjur was Used by A la ša Lha btsun in Studying the Vinaya," in H. Eimer, *Ein Jahrzehnt Studien zur Überlieferung des tibetischen Kanjur* (Wien: 1992) 185–189; esp. n. 7, 187. Eimer says that "in the Derge and in the Urga edition ... the *Vinayottaragrantha* and the *Vinayottamagrantha* are not distinctly separated," but they are so at least in the Taipei reprint of the Derge; see G. Schopen, "If You Can't Remember, How to Make it Up: Some Monastic Rules for Redacting Canonical Texts," in *Bauddhavidyāsudhākaraṇ. Studies in Honour of Heinz Bechert on the Occasion of his 65th Birthday* hg. P. Kieffer-Pülz & J.-U. Hartmann (Swisttal- Odendorf: 1997) 580 n. 30.

15 A.C. Banerjee, *Sarvāstivāda Literature* (Calcutta: 1957) 99.

16 G. Schopen, "Marking Time in Buddhist Monasteries. On Calendars, Clocks, and Some Liturgical Practices," in *Sūryacandrāya. Essays in Honour of Akira Yuyama on the Occasion of His 65th Birthday*, ed. P. Harrison & G. Schopen (Swisttal–Odendorf: 1998) 157–179; esp. 172ff.

17 *Cīvara-vastu*, GMs iii 2,119.15; 121.2; for the *Uttaragrantha* text see the text marked I below, and for the auction especially n. 81.

18 See the references in n.8 above; and Schopen, "Marking Time in Buddhist Monasteries," 172, n. 54.

19 G. Schopen, "Doing Business for the Lord: Lending on Interest and Written Loan Contracts in the Mūlasarvāstivāda-vinaya," *Journal of the American Oriental Society* 114 (1994) 527–554 (for the text in the *Uttaragrantha* – which I did not know at the time I was writing this paper – see Derge Pa 265a.6–265b.2). Guṇaprabha appears to have used the *Uttara* text, though he refers to his source as "The *Mātṛkā*" (pp. 543–544) (–For more on the monastic use of substitutes or surrogates see below pp. 23–24). Although the question needs much fuller study, what appears to be another example of the pattern is worth mentioning because it concerns the *gandhakuṭī*. The *Śayanāsana-vastu*, Gnoli 10–12, has an important proof text that places the *gandhakuṭī* within the *vihāra*, but this placement is attested in the archeological record only rather late (4th–5th century), and appears to be completely absent in Gandhara. The *Uttara*, however, has a text which places *gandhakuṭīs* around the perimeters of *stūpas* (Derge Pa 119b.2: *...mchod rten la mtha' ma dri gtsang khang gis bskor la* ...), and this may be precisely what we see at, for example, the Dharmarājikā at Taxila.

20 M. Hahn, "The Avadānaśataka and its Affiliation," in *Proceedings of the XXXII International Congress for Asian and North African Studies. Hamburg 25th–30th August 1986*, ed. A. Wezler & E. Hammerschmidt (Stuttgart: 1992) 171.

21 For the texts in the *Uttaragrantha* see Derge Pa 104b.6–108a.4 (=*Maitrakanyaka*); Derge Pa 115b.1–119a.6 (=*Śrīmatī-avadāna* – M. Deeg. "The Saṅgha of Devadatta: Fiction and History of a Heresy in the Buddhist Tradition," *Journal of the International College for Advanced Buddhist Studies* 2 (1999) 183–218, esp. 198–199 & n. 86, says, referring to the *Śrīmatī* in the *Avadāna-śataka*, "This episode ... is not found anywhere else in Buddhist narrative literature," but the *Uttara* version requires that this be revised. J.L. Panglung, *Die Erzählstoffe des Mūlasarvāstivāda-vinaya. Analysiert auf Grund der Tibetischen Übersetzung* (Tokyo: 1981) has not included the *Uttara* in its survey, and does not always give the

parallels in the *Avadāna-śataka* for stories found even elsewhere in the *Mūlasarvāstivāda-vinaya*; e.g. under what it calls "Die Bekehrung einer alten Frau" (p. 30) it does not indicate that this tale has a close parallel in *Avadāna-śataka* no. 78, "Kacaṅgala." This is a particularly important parallel because the *Vinaya* version is preserved in Sanskrit (*Bhaiṣajyavastu*, GMs iii 1, 20.3ff) and can therefore be directly compared with the Sanskrit text of the *Avadāna-śataka*. The 4th varga of the *Avadāna-śataka*, by the way, appears to be particularly dependent on the *Mūlasarvāstivāda-vinaya* – as many as half of the tales in the former may have come from the latter (nos. 31,36,37,38 and 40).

22 This work has received very little attention and has yet to be described in any detail. L.W. J. van der Kuijp ("The Yoke is on the Reader: A Recent Study of Tibetan Jurisprudence," *Central Asiatic Journal* 43 (1999) 266–292; esp. 280, n. 29) has recently referred to it as a source for Buddhist *Vinaya* narrative literature bearing on legal matters, but it is also more than that. I myself have described it as "A condensed version of the *entire Mūlasarvāstivāda-vinaya*" and noted that "it follows the rearrangement of the canonical material effected by Guṇaprabha in his *Vinayasūtra*" (Schopen, "Marking Time in Buddhist Monasteries," 178, n. 67). But whereas in the *Vinayasūtra* we get only the rulings, and then too in sometimes incredibly compact *sūtra* form rendering any identification of source very difficult, in Bu ston we get a more or less condensed version not only of the rulings but also of the narratives which generated them. These, of course, are much easier to recognize, though doing so requires a reasonably good knowledge of the canonical *Vinaya*. The commentaries on the *Vinayasūtra* – there are four by Indian authors – also occasionally cite something of the canonical narratives Guṇaprabha is drawing on, and a combination of these sources usually allows one to identify the texts in the canonical *Vinaya* he is digesting with at least some degree of certainty.

23 The references here are to the text of the *'Dul ba pha'i gleng 'bum chen mo* published in *The Collected Works of Bu-Ston*, Part 23 (Ḥa), ed. L. Chandra (New Delhi: 1971) and the numbers given are the original folio numbers.

24 On the order of the *vastus* in the *Mūlasarvāstivāda-vinaya* see H. Hu-von Hinüber, "The 17 Titles of the *Vinaya-vastu* in the *Mahāvyutpatti*. Contributions to Indo-Tibetan Lexicography II," *Bauddhavidyāsudhākaraṇ*, 339–345.

25 No one, to my knowledge, has yet to study the thematic logic of Guṇaprabha's re-arrangement of the canonical material. In fact the study of the *Vinayasūtra* and its commentarial literature in general has moved at something less than even the usual snail's pace. Only recently, for example, have we begun to get some material for establishing better Sanskrit texts; see M. Nakagawa, "On the *Adattādāna-pārājikam* in the *Vinayasūtravṛtti* – Transcription text on the *sūtras* no. 120–123 –," *Indogaku bukkyōgaku kenkyū*, 48.2 [96] (2000) 1135–1133, and his other papers cited there in n. 1 (Note, however, that this list is not complete).

26 Here it is worth noting that there appears to be at least one other attempt to systematize Buddhist monastic inheritance law that is very much in need of study. S. Weinstein has said: "The importance of the question of the disposition of the property of deceased monks, technically known as *wang pi-ch'iu wu* ... can be seen from the fact that Tao-Hsüan, the *de facto* founder of the *Lü* (or *Vinaya*) school, wrote a work solely devoted to this subject (the *Liang-ch'u ch'ing-chung i* ... in two fascicles ...)" (*Buddhism Under the T'ang* (Cambridge: 1987) 183 n. 25; cf. 93–94). As far as I know, however, this work has been little more than mentioned in Western sources; e.g. J. Gernet, *Les aspects économiques du bouddhisme dans la société chinoise du v^e au x^e siècle* (Paris: 1956) 66n.2; 70n.2; etc; J. Kieschnick, *The Eminent Monk. Buddhist Ideals in Medieval Chinese Hagiography* (Honolulu: 1997) 12n.43; etc.

[27] Capital roman numerals indicate the actual order of occurrence in the *Uttaragrantha* of the main texts presented here – the present text, for example, is the first given here but occurs in the *Uttara* at Tog Na 190b.3, and therefore after the last text presented in this paper, i.e. I, which occurs at Tog Na 121b.2. This seemed a good way of highlighting the fact that in presenting texts we often rearrange them and produce a 'system' which is entirely of our own making. Lower case roman numerals reflect the order or position of the texts treated here in Guṇaprabha's 'system' and refer to the table on pp. 5–6.

[28] So M. Monier-Williams, *A Sanskrit-English Dictionary* (Oxford: 1899) s.v. *kārṣāpaṇa*, though he cites only "Lexicographers;" for the *Mūlasarvāstivāda-vinaya* and related literature see, for convenience, K. Upreti, *India as Reflected in the Divyāvadāna* (New Delhi: 1995) 40, 43, 44, 72–73, 96, 105, 130.

[29] H.A. Jäschke, *A Tibetan-English Dictionary* (London: 1881) – hereafter cited simply as Jäschke.

[30] Zhang Yisun et al., *Bod rgya tshig mdzod chen mo*, Vols. I–III (Peking: 1985) – hereafter by title only.

[31] *Carma-vastu*, GMs iii 4, 192.17: *mā yuṣmābhiṇ kiñcid uddhārīkṛtam / . . . nāsmābhiṇ kiñcid uddhārīkṛtaṃ* = Tog Ka 382b.4: *khyed kyis skyin po cung zad ma byas sam / . . . bdag cag gis skyin po cung zad kyang ma byas te = Divyāvadāna* 23.14.

[32] See, for example, *Prātimokṣa* (Banerjee) 29.20 = Derge Ca 10a.6; *Saṅghabhedavastu* (Gnoli) ii 104.13 = Tog Nga 246a.1; ii 106.22 = Tog Nga 247b.5; *Cīvaravastu*, GMs iii 2, 143.7 = Tog Ga 149a.5; *Carmavastu*, GMs iii 4, 192.13 = Tog Ka 382b.2; etc.

[33] One might have thought that this would be covered by the 19th *Naisargika-pāyantikā (yaṇ punar bhikṣur nānāprakāraṃ rupika-*[ms. *rūpika*]*-vyavahāraṃ samāpadyeta naisargikā pāyantikā – Prātimokṣa* (Banerjee) 29.18; *Gilgit Manuscripts* (*Facsimile Edition*) i 44.2), but the treatment of this rule in the *Vibhaṅga* (Derge Cha 149b.7–155b.3) shows no sign of that. On the contrary, it is precisely under this rule that the *Vibhaṅga* authorizes monks to lend money on interest (see Schopen, "Doing Business for the Lord," 527–554). Moreover, the wording of this ruling is open to the same range of interpretations as is the 20th *Naisargikā*, which will be discussed below, pp. 21–22.

[34] See G. Schopen, "On Avoiding Ghosts and Social Censure: Monastic Funerals in the Mūlasarvāstivāda-vinaya," *Journal of Indian Philosophy* 20(1992), 1–39 [= G. Schopen, *Bones, Stones, and Buddhist Monks. Collected Papers on the Archaeology, Epigraphy, and Texts of Monastic Buddhism in India* (Honolulu: 1997) 204–237; hereafter *BSBM*].

[35] *Kṣudraka-vastu*, Tog Ta 45a.6–46a.1 = Derge Tha 31a.5–31b.4; *Carma-vastu*, GMs iii 4, 210.6–.14 [though the Sanskrit text is here faulty] = Tog Ka 395b.6–396a.7 = Derge Ka 277a.6–277b.5 – see also *Kṣudraka-vastu*, Tog Ta 306a.6–307a.5 = Derge Tha 204b–205a.3.

[36] Chatterjee, *The Law of Debt in Ancient India*, 90–91; for Gautama, see now P. Olivelle, *Dharmasūtras. The Law Codes of Ancient India* (Oxford: 1999) 99 – his 12.40: "Those who inherit the property of someone have to pay his debts;" for the text and translation of *Yājñavalkya* and *Viṣṇu* see, for convenience, B.N. Mani, *Laws of Dharmasastras* (New Delhi: 1989) 170.

[37] Schopen, "Doing Business for the Lord," 537.

[38] "Das *Prātimokṣasūtra* . . . ist nach übereinstimmender Ansicht der Forschung eines der ältesten Werke, wenn nicht das älteste Werk des buddhistischen Schrifttums überhaupt;" D. Schlingloff, "Zur Interpretation des Prātìmokṣasūtra," *Zeitschrift der Deutschen Morgenländischen Gesellschaft* 113.3 (1964) 536.

[39] For the Mūlasarvāstivādins see, for example, the 9th *Pāyantikā, Prātimokṣa* (Banerjee) 32.17. But note too that the occurrence alone of the term *sāṃghika* must of necessity

imply the acknowledgement of other kinds of 'monastic' property. For example, if all *vihāras* belonged to the community then the expression *sāṃghike vihāre*, "in a monastery belonging to the community," is redundant and the specification pointless. In fact the presence of *sāṃghika* makes no sense unless there were other kinds of *vihāras* which did not belong to the community. Although not yet fully studied, it is already clear that the Pāli *Vinaya* knows and takes for granted *vihāras* owned by lay brothers (*upāsaka* – Pāli *Vinaya* ii 174.4; iii 65.38; 102.5). And there is no doubt that the *Mūlasarvāstivāda-vinaya* even more fully acknowledges the private ownership of monasteries by both laymen and monks (see G. Schopen, "The Lay Ownership of Monasteries and the Role of the Monk in Mūlasarvāstivādin Monasticism," *JIABS* 19.1 (1996) 81–126, to which should be added at least two texts, one from the *Vibhaṅga* (Derge Cha 203a.4–205b.1) and one from the *Uttaragrantha* (Derge Pa 82b.1–84b.2) which deal with a dispute centered on a monastery that was the personal property of the Monk Rāhula). These considerations, moreover, would appear to place a significant restriction on a not insignificant number of *Prātimokṣa* rules. The 14th–18th *Pāyantikās*, for example, would appear to apply, by virtue of the qualification *sāṃghike vihāre* in them, *only* to community owned *vihāras*. In any other case the action described would not constitute an offence. I hope to return to these issues in the not too distant future.

40 Chatterjee, *The Law of Debt in Ancient India*, 101.

41 Olivelle, "Renouncer and Renunciation," 144–145 – *dharmabhrātṛ* is another *dharmaśāstric* term found in the *Mūlasarvāstivāda-vinaya*. In the *Uttaragrantha* (Derge Pa 86a.2–.6) a nun claims the estate of a dead monk that was in her possession on the basis of the assertion that "He was also our brother in religion," *bdag cag gi yang chos kyi ming po lags so zhes smras pa*, and *chos kyi ming po* can hardly be anything other than a translation of *dharmabhrātṛ*. In a pendant to this text in which monks make a claim on a nun's estate the assertion is "she was also our sister in religion," *de yang nged kyi chos kyi sring mo yin no* (Derge Pa 86a.6–b.4), and here the text must be translating something like the lesser known *dharma-bhaginī*. Both claims are rejected on the principle that what belonged to a member of one gender goes to others of that same gender, except when there are no others of that same gender present. All these texts are taken up by Guṇaprabha (ii–v in the table above pp. 5–6).

42 There is as well another potential difficulty here in terms of *dharmaśāstra* itself. If, as *Yājñavalkya* says, the heirs of a renouncer (*yati*) are, in part even, his *dharmabhrātṛ*, his "spiritual brothers," since his *dharmabhrātṛs* are also presumably renouncers this would seem to indicate that renouncers can indeed inherit, and this would collide with Olivelle's assertion that "After renunciation he [the renouncer] can no longer inherit any property" ("Renouncer and Renunciation," 143).

43 Chatterjee, *The Law of Debt in Ancient India*, 122.

44 Chatterjee, *The Law of Debt in Ancient India*, 83; see also 84–87; *Nārada* I.6.

45 *Cīvara-vastu*, GMs iii 2, 124.11–125.9. Although I cite the Sanskrit text here it is by no means free of textual and/or lexical problems, the chief of which concern what Dutt reads as *pānīyaṃ* and *pātavyam* (ns. 2&3) but prints as *dānīyaṃ* and *dātavyam* (see *Gilgit Buddhist Manuscripts* (*Facsimile Edition*) vi 851.2–.6). These problems do not obscure the general sense, which is clear in the Tibetan (Derge Ga 104b.2–105a.1=Tog Ga 136b.6–137a.7) and even in the *Vinayasūtra* (*Vinayasūtra & Auto-Commentary* (Bapat & Gokhale) 47.2ff), but they need to be sorted out.

46 *Vinayavibhaṅga*, Derge Ca 79b.3ff: *chos gos gsum la 'chel ba*.

47 *Vinayasūtra* (Sankrityayana) 33.22 – *'Dul ba'i mdo*, Derge bstan 'gyur Wu 27a.2.

[48] On this title and office see the unpublished dissertation, J.A. Silk, *The Origins and Early History of the Mahāratnakūṭa Tradition of Mahāyāna Buddhism with a Study of the Ratnarāśisūtra and Related Materials*, University of Michigan, 1994, 215ff.
[49] See *Vinayasūtra* (Sankrityayana) 33.22: *nāpṛṣṭvā vṛddhām* ... = *'Dul ba'i mdo*, Derge bstan 'gyur Wu *27a.3: rgan rabs rgan rabs dag la ma zhugs par* ...
[50] Though limited for its textual sources to Pāli material see M. Njammasch, "Der *navakammika* und seine Stellung in der Hierarchie der buddhistischen Klöster," *Altorientalische Forschungen* 1(1974) 279–293; for the Mūlasarvāstivādin tradition see at least *Vinayasūtra* (Sankrityayana) 112.16–31.
[51] *Uttaragrantha*, Derge Pa 112b.1–113a.1; see also *Vinayavibhaṅga* Derge Ca 75b.5–76b.4.
[52] Pāli *Vinaya* i 297.33–298.3; see also iv 286.3.
[53] O. von Hinüber, *Entstehung und Aufbau der Jātaka-Sammlung. Studien zur Literatur des Theravāda-Buddhismus I* (Akademie der Wissenschaften und der Literatur, Mainz) (Stuttgart: 1998) 23–24. also L. Feer, "Études bouddhiques. Maitrakanyaka-Mittavindaka. La piété filiale," *Journal asiatique* (1878), 388–392.
[54] H. Hu-von Hinüber, *Das Poṣadhavastu. Vorschriften für die buddhistische Beichtfeier im Vinaya der Mūlasarvāstivādins* (Reinbek: 1994) 280–281; *Śayanāsanavastu* (Gnoli) 38.30; 47.18.
[55] On lenders and lending institutions in early India see, for example, L. Gopal, "Credit Laws in Ancient India," *Felicitation Volume (A Collection of Forty-two Indological Essays) Presented to Mahamahopadhyaya Dr. V.V. Mirashi*, ed G.T. Deshpande, et al (Nagpur: 1965) 444–458; H.S. Singh, "Institutions of Money-lending," *Journal of the Ganganatha Jha Kendriya Sanskrit Vidyapeetha* 38 & 39 (1982–1983) 109–124; S. Gururajachar, "Banking Practices in India (Up to AD 1600)," *New Trends in Indian Art and Archaeology. S.R. Rao's 70th Birthday Felicitation Volume*, ed. B.U. Nayak, N.C. Ghosh (New Delhi: 1992) Vol. 2, 573–582.
[56] As already noted in the apparatus to the Tibetan text (n. 3), a negative appears to have dropped out of the text. Although it occurs in neither Tog, Derge, nor Peking – nor even in Bu ston – both context and the previous *ma byin par* in line 6 would seem to require it and I have supplied it in translation.
[57] L. Finot, "Le prātimokṣasūtra des sarvāstivādins," *Journal asiatique* (1913) 498 (No. 20); *Prātimokṣa* (Banerjee) 29 (no. 20); *Prātimokṣasūtram of the Lokottaravādimahāsāṅghika School*, ed. N. Tatia (Patna: 1976) 16 (No. 19); *Pātimokkha*, ed. R.D. Vadekar (Poona: 1939) 9 (No. 20).
[58] Schopen, "The Good Monk and his Money," 103.
[59] S.C. Vidyabhusana, "So-sor-thar-pa; or, a Code of Buddhist Monastic Laws: Being the Tibetan Version of Prātimokṣa of the Mūla-Sarvāstivāda School," *Journal of the Asiatic Society of Bengal*, n.s. 11 (1915) 99. – Notice too that the "Old Commentary" embedded in its *Vibhaṅga* glosses *rnam pa sna tshogs (nānāprakāra)* with *rnam pa mang po* (Derge Cha 156.7), and in the previous rule the same term is glossed by *rnam pa du ma. Mang po* most commonly means "many," and *du ma* virtually the same; neither carries the sense "all."
[60] Huber in Finot, "Le prātimokṣasūtra des sarvāstivādins," 498: cf L.Wieger, *Bouddhisme Chinois. Vinaya. Monachisme et discipline. Hinayana, véhicule inférieur* (Paris: 1910) 233: "Si un moine fait le commerce, en quelque marchandise que ce soit, il y a transgression" – Dharmaguptaka.
[61] M. Wijayaratna, *Le moine bouddhiste selon les textes du Theravāda* (Paris: 1983) 97; I.B. Horner, *The Book of the Discipline* (Sacred Books of the Buddhist 11) (Oxford: 1940)

Pt. 2, 111; T.W. Rhys Davids & H. Oldenberg, *Vinaya Texts* (Sacred Books of the East 13) (Oxford: 1885) 27.

62 Schopen, "The Good Monk and his Money," 100ff.

63 Chatterjee, *The Law of Debt in Ancient India*, xvii; xx.

64 Pāli *Vinaya* iii 242.11; Horner, *Book of the Discipline* ii 112 – see also R. Gombrich, *Theravāda Buddhism. A Social History from Ancient Benares to Modern Colombo* (London & New York: 1988) 92–93; 102–103; 162–164.

65 *Uttaragrantha*, Derge Pa 134a.1–134b.7 = Tog Na 192b.5–194a.4.

66 *Vinayavibhaṅga*, Derge Cha 156b.3.

67 The definition is from W. Doniger, *The Laws of Manu* (London: 1991) 316; see also R. Lingat, *The Classical Law of India*, trans. J.D.M. Derrett (Berkeley: 1973) 39–40.

68 Notice the qualification of lay brothers both here and in the text just cited from the *Uttara*. Both indicate that a "trustworthy" lay brother should be used, meaning, it seems, that not all lay brothers were so. For yet another reference to the use of a "trustworthy" lay brother see the text treated in Schopen, "Doing Business for the Lord," 530, where *dge bsnyen dad pa can* is incorrectly translated as "a devout lay-brother."

69 For the text see *Vinayavibhaṅga*, Derge Cha 149b.1–.7 – for another instance of the use of surrogates in the *Mūlasarvāstivāda-vinaya*, see above p. 4 and notice the difference in this regard between the *Vibhaṅga* and the *Uttara* pointed out there.

70 For some indications of the same sort of thing even in the Pāli *Vinaya* see Gombrich, *Theravāda Buddhism*, 103.

71 *Kṣudraka-vastu*, Derge Tha 262b.4–263a.6 = Tog Ta 392b.2–393b.2.

72 See, for example, *Cīvara-vastu*, GMs iii 2, 119.14 = Tog Ga 133b.6; GMs iii 2, 121.2 = Tog Ga 134b.6; GMs iii 2, 125.6 = Tog Ga 137a.5.

73 At first sight at least the Pāli version looks like a much condensed or 'edited' version of the text found in the *Mūlasarvāstivāda-vinaya*, and there are other instances of what seems to be the same pattern, although the whole question has yet to be carefully studied.

74 Pāli *Vinaya* ii 174.18–.24; Rhys Davids & Oldenberg, *Vinaya Texts* iii 217; Horner, *Book of the Discipline* v 245; M. Wijayaratna, *Buddhist Monastic Life. According to the Texts of the Theravāda Tradition*, trans. C. Grangier & S. Collins (Cambridge: 1990) 81 – The original (Wijayaratna, *Le moine bouddhiste*, 97) reads: "... furent autorisés à l'échanger contre un article plus utile."

75 Y. Ousaka, M. Yamazaki, and K.R. Norman, *Index to the Vinaya-Piṭaka* (Oxford: 1996) 472.

76 Horner, *Book of the Discipline* iv 109.

77 For a good idea of what could fall under contract law in *dharmaśāstra* see *Nārada* V, VI, VIII and IX – the binding nature of the act of acceptance of a fee is startlingly clear, for example, in *Nārada* VI. 20: *śulkaṃ gṛhītvā paṇyastrī necchantī dvis tad āvahet*.

78 As is characteristic of the prose of the *Mūlasarvāstivāda-vinaya*, in both Sanskrit and Tibetan, the text here and throughout can be both elliptical and heavily dependent on the use of pronouns. The text in fact never uses a term for 'body' or 'corpse,' but simply the 'demonstrative pronoun' *de*. I have as a consequence sometimes translated this by supplying what I take to be the referent, and sometimes simply by "it."

79 Our text makes *dris pa la lan 'debs pa'i dge slong ...* look like a title or designation for yet another monastic office, and yet it can hardly be anything else than an attempt to render something like the common *pṛṣṭavācikayā bhikṣūn samanuyujya (Kaṭhinavastu* (Chang) 52.28, which is more typically rendered: *dris pa'i tshig gis dge slong rnams la yang dag par bsgo la* (Chang 80.13). The Sanskrit phrase itself, however, especially *pṛṣṭa* – or *pṛṣṭha-vācika*, remains problematic (see Edgerton 353; Hu-von Hinüber, *Das*

Poṣadhavastu, 212–214; H. Matsumura, "The Kaṭhinavastu from the Vinayavastu of the Mūlasarvāstivādins," in *Sanskrit-Texte aus dem buddhistischen Kanon: Neuentdeckungen und Neueditionen III* (Sanskrit-Wörterbuch der buddhistischen Texte aus den Turfan-Funden. Beiheft 6) (Göttingen: 1996) 193, n. 72) Given this it might be useful to cite the two commentarial 'definitions' that I have come across. Śīlapālita, *Āgamakṣudraka-vyākhyāna*; Derge, bstan 'gyur 'dul ba Dzu 22a.6: *dris pa'i tshig gis zhes bya ba ni ga ṇḍī brdungs ba na lam gyi phyogs na gnas pa'i dge slong gis ci'i phyir gaṇḍī brdungs ba sngon du song ba can gyi 'dus pa mdzad ces dris ba gang yin pa de la / dris nas lan du brjod pa de ni dris pa'i tshig yin no /*, which – *if* I have understood it correctly – might be translated as: " 'With the pronouncement of what is asked' means: when the monk stationed to the side of the path when the gaṇḍī is struck is asked the question 'for what reason is an assembly preceded by striking the gaṇḍī called?,' and he gives the answer – that is the pronouncement of what is asked." Vinītadeva, *Vinayavibhaṅgapadavyākhyāna*, Derge, bstan 'gyur 'dul ba Tshu 91b.4: *dris pa'i tshig gis zhes bya ba ni ci'i phyir gaṇḍī brdungs zhes gzhan gyis dris pa la 'di'i phyir brdungs so zhes lan gdab pa'i tshig gis so /*: " 'With the pronouncement of what is asked' means: with the pronouncement of the answer 'it has been struck for this reason' when someone asks 'for what reason has the gaṇḍī been struck?' "

80 *gtsug lag khang skyong (ba)* can hardly be anything but a translation of something very like *vihārapāla* – *gtsug lag khang* is the standard translation of *vihāra*, and *skyong ba* commonly renders forms of √*pāl*. This office is referred to elsewhere in the *Uttara* as well, at Derge Pa 72a.1 (where the *vihārapāla* is one of two officers – the other is the *saṃgha-sthavira* – charged with keeping track of the date; see Schopen, "Marking Time in Buddhist Monasteries," 173,175), 151a.5 (which would seem to indicate that it was a rotating office: *tshe dang ldan pa kun dga' bo la gtsug lag khang skyong gi res bab bo /*), 200b.5ff, etc. Yijing says "Those who stand guard, administer the monastery gates, and announce the business to the community meeting are called *vihārapāla*" (Silk, *The Origins and Early History of the Mahāratnakūṭa*, 235). What is probably the same title occurs in the form *gtsug lag khang dag yongs su skyong bar byed ba* in the *Kṣudraka* (see Schopen, "The Lay Ownership of Monasteries," 110, n. 60).

81 *rin thang bskyed pa* as a unit does not yet have an attested equivalent, but *rin thang* is given as an equivalent of *argha* and *mūlya* in the *Tibetan-Sanskrit Dictionary* (2264), and *bskyed pa* is given for *vardhana* (207). The Tibetan, then, is not very far from one of the definitions that Monier-Williams (*English-Sanskrit Dictionary* 32) gives – on what authority I do not know – of the English word "auction": *varddhamānamūlyena nānādravyavikrayaṇ*. The *Uttaragrantha* has in fact detailed rules governing this kind of sale, which include one against monks artificially inflating the bid (Derge Pa 177b.2). But a discussion of these and other references to monastic auctions must wait for another time. Note, for the moment, only that other Buddhist monastic traditions also appear to have known such sales – see G. Roth, *Bhikṣuṇī-vinaya. Manual of Discipline for Buddhist Nuns* (Patna: 1970) 182.13 = É. Nolot, *Règles de discipline des nonnes bouddhistes* (Paris: 1991) 184.18.

82 *Vinayavibhaṅga*, Derge Ja 154b.2–156b.7.

83 Schopen, "On Avoiding Ghosts and Social Censure," 14–17 [*BSBM* 215–218].

84 *Bhaiṣajyavastu*, GMs iii 1, 285.17.

85 *Bhaiṣajyavastu*, GMs iii 1, ix – the passage here has been in large part reconstructed by Dutt.

86 Though the story line differed, the same 'explanation' was also given to justify, for example, monastic control of important relics; see G. Schopen, "Ritual Rights and Bones

of Contention: More on Monastic Funerals and Relics in the *Mūlasarvāstivāda-vinaya*," *Journal of Indian Philosophy* 22(1994) 31–80, esp. 52.

[87] It has indeed been difficult to detect even a trace of Buddhists in dharma-literature; see Lingat, *The Classical Law of India*, 123; see also, for examples, J. Filliozat, "La valeur des connaissances gréco-romaines sur l'inde," *Journal des savants*, avril-juin (1981) 113, n. 32. R. Gombrich, "The Earliest Brahmanical Reference to Buddhism?," in *Relativism, Suffering and Beyond. Essays in Memory of Bimal K. Matilal*, ed. P. Bilimoria, J.N. Mohanty (Delhi: 1997) 32–49, but see Olivelle, *Rules and Regulations of Brahmanical Asceticism*, 32, n. 10; O. von Hinüber, *Das Pātimokkhasutta der Theravādin. Studien zur Literatur des Theravāda-Buddhismus II* (Akademie der Wissenschaften und der Literatur, Mainz) (Stuttgart: 1999) 23, n. 50. – It is, of course, commonly suggested that "Buddhists" are included by *dharmaśāstra* writers under the term *pāṣaṇḍa*, but this is only made explicit in later commentaries; see, for example, Lariviere, *The Nāradasmṛti*, Pt. II, 130.

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